

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

JOAN BOICE, by and through her)
successor-in-interest, ERIC)
BOICE, and MYRON BOICE, ERIC)
BOICE, NANCEE BOICE, and MARK)
BOICE, individually,)
)
Plaintiffs,)
)
-vs-) No. 34-2009-00063714
)
EMERITUS CORPORATION, EMERITUS)
SENIOR LIVING AT EMERALD HILLS,)
RHONDA CASTLEBERG, and DOES 1)
through 50, inclusive,)
)
Defendants.)
_____)

Videotaped Deposition of

NANCY CORDOVA

Volume II

MONDAY, AUGUST 13, 2012

REPORTED BY: CATHERINE RANSOM, CSR No. 4693

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INDEX OF APPEARANCES

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INDEX OF EXHIBITS

EXHIBIT	PAGE	DESCRIPTION
329	262	10-page Notice of Oral and Videotaped Deposition of Former Emeritus Employee Nancy Cordova (Day two) and Request for Production of Documents
330	262	6-page Designation of Facility Responsibility forms
331	262	12-page compilation of e-mails and medication guidelines
332	262	32-page Senior Vice President, Quality & Risk Monthly Performance Reviews
333	418	1-page Faculty Program for Dementia Care

1 BE IT REMEMBERED that, pursuant to Notice, and
2 on MONDAY, the 13th of AUGUST, 2012, commencing at the
3 hour of 9:22 a.m. thereof, at the Law Offices of Clement
4 & Associates, 2209 J Street, Sacramento, California,
5 before me, CATHERINE RANSOM, a Certified Shorthand
6 Reporter in and for the County of Sacramento, State of
7 California, personally appeared

8 NANCY CORDOVA,
9 called as a witness herein, who, having been by me duly
10 sworn, was thereupon examined and interrogated as
11 hereinafter set forth.

12 (Whereupon the court reporter marked
13 Exhibits 329 to Exhibit 332.)

14 THE VIDEOGRAPHER: We are on the record at 9:22
15 a.m. The date is August 13, 2012.

16 Good morning. My name is Erik Urias, and I will
17 be videotaping this proceeding. I am employed by Ronk
18 and Company, located at 2600 X Street in Sacramento,
19 California 95818. We are located at 2209 J Street in
20 Sacramento, California. We are here in the matter of
21 Boice versus Emeritus, et al.

22 This will be the deposition of Nancy Cordova,
23 volume two. The attorney noticing the deposition is
24 Lesley Clement, representing the Plaintiff. The court
25 reporter is Catherine Ransom of Scribe Reporting.

1 Would all counsel please identify themselves,
2 the firm they are with and who they represent.

3 MS. CLEMENT: Lesley Clement for the Plaintiffs.

4 MS. WELLS: Kim Wells of Lewis, Brisbois,
5 Bisgaard and Smith for Defendants.

6 MR. CORDOVA: Jose Cordova, law office of Jose
7 Cordova for witness Nancy Cordova.

8 THE VIDEOGRAPHER: The court reporter may swear
9 in the witness.

10 (Whereupon the witness was administered the oath
11 by the court reporter.)

12 EXAMINATION BY MS. CLEMENT

13 Q Good morning, Ms. Cordova.

14 A Good morning.

15 Q Can you please state your name and address again
16 for the record.

17 A Sure. Nancy Cordova, 2301 Sunset Boulevard,
18 apartment 1316 in Rocklin, California 95765.

19 Q Thank you. Are you still employed with Vitas
20 Hospice?

21 A I am.

22 Q And do you have the same position you did when
23 we deposed you last time?

24 A I do.

25 Q Okay. Are there any other changes you would

1 like to make to your deposition --

2 A Um.

3 Q -- transcript from volume one?

4 A Oh, okay. You know, there was one change. And
5 let me just try to remember. The -- I was asked about
6 the departure of Bertha Bell. What I do recall is that
7 it was voluntary. But what it was following was there
8 was a period of time where there was correction to a
9 process of giving the diabetic residents the appropriate
10 medication. And I think I wrote about that in my
11 corrections.

12 And when Bertha was there, she was there
13 hopefully correcting that, and as I expected, correcting
14 that. And I learned on a particular day from a staff
15 member that she hadn't corrected it, that she was
16 actually still having them proceed with how they had
17 been.

18 When I found out about it, I called corporate.
19 I confronted Bertha about it, and she admitted to it.
20 And so I asked her to write down everything that she
21 knew and everything that had happened. She came back
22 and said, "Every way I write it, it doesn't look good,
23 so I am just going to resign."

24 So voluntary, but following incident.

25 Q And can you tell me exactly what was going on in

1 the facility with regard to the delivery of diabetic
2 medication to a resident or residents that you wanted to
3 have corrected?

4 A So what was discovered, and I believe it was
5 discovered during one of the audits, was that med techs
6 were actually drawing up the dose of insulin when that
7 is something that needed to be done by a licensed
8 professional.

9 Q And when you say licensed professional, do you
10 mean a licensed nurse, either LVN or RN?

11 A Correct.

12 Q And did this incident happen before Peggy
13 Stevenson came onboard as the resident care director?

14 A Yes.

15 Q And did this incident happen after Mary Kasuba
16 was no longer at Emerald Hills?

17 A I don't know when it started, but when it was
18 discovered was after her departure.

19 Q And was this with regard to one resident or more
20 residents?

21 A More than one resident.

22 Q So if I understand correctly, more than one
23 resident at Emerald Hills needed insulin injections.
24 The med techs were drawing or measuring the insulin
25 injections for the residents, and that's what the med

1 techs were not allowed to do?

2 A Correct.

3 Q And this was brought to your attention by
4 someone?

5 A I don't exactly remember who. I think -- from
6 what I remember, I think this came out during that, the
7 first audit.

8 Q Okay.

9 A When they were evaluating the med room.

10 Q Okay.

11 MR. CORDOVA: I'm going to instruct the witness
12 to wait for the attorney to finish asking her question.

13 Q (BY MS. CLEMENT): Do you need me to go over the
14 admonitions again with you?

15 A I don't think so.

16 Q Okay. Let me show you what we have marked as
17 Exhibit 325. And this was marked at Budgie Amparo's
18 deposition last week in Seattle. Did you know that
19 Budgie Amparo was the head nurse for Emeritus?

20 A I did.

21 Q Okay. So they have produced for us this section
22 of a November 2007 CPR, or comprehensive process review.
23 Is this your understanding this is that they call the
24 audits?

25 A Yes.

1 Q And Emeritus has represented that they can only
2 find two sections of this November 2007 audit. And one
3 of them was the pharmacy section, which Mr. Amparo
4 brought to his deposition. They also told us under
5 penalty of perjury that there was no audit done in 2008.
6 And there was one done in 2009.

7 MS. WELLS: Misstates the documents, responses.

8 Q (BY MS. CLEMENT): After you had already left.

9 Okay. What am I misstating here, Kim?

10 MS. WELLS: It doesn't state that they could
11 not, that they did not do one. They said they couldn't
12 find the documentation and couldn't determine
13 specifically whether or not one had been done. They
14 didn't state one was not done.

15 MS. CLEMENT: Well, they also stated that in
16 response to the court order, that they further respond
17 that they talked to all the people who would have been
18 involved, and nobody had any evidence that one had been
19 done.

20 MS. WELLS: I am telling you what the response
21 says.

22 MS. CLEMENT: I know what the response says.

23 MS. WELLS: Okay. We can talk about it now or
24 we can talk about it --

25 MS. CLEMENT: No, I just -- well, I just want to

1 make sure we are both on the same page. The response
2 also says that they talked to everyone who would have
3 been involved, and nobody has any evidence that there
4 was one done in 2009.

5 MS. WELLS: Did we not have some in evidence
6 from Crystal Roberts deposition that she remembered
7 participating in one?

8 MS. CLEMENT: No, that was 2007.

9 Q (BY MS. CLEMENT): Okay. So where were we? Oh,
10 yeah. Okay. So to your understanding, while you were
11 the executive director at Emeritus, who was supposed to
12 be actually giving injections of insulin to the
13 residents?

14 A A licensed nurse.

15 Q Okay.

16 A Or a resident, self-administering.

17 Q And when Bertha Bell was working at Emeritus,
18 she was there on loan from another facility?

19 A Initially, yes. And then she became a permanent
20 employee there.

21 Q And do you have a recollection as to how --
22 strike that.

23 When she was on loan from another facility, was
24 she coming just to -- part-time and splitting her time
25 between the two facilities?

1 A I don't remember. She may have, but I don't
2 remember if it would have been part days, full days,
3 partial week. I just -- I don't remember.

4 Q Do you know what the other facility was? Do you
5 remember that, which facility it was?

6 A Yes.

7 MR. CORDOVA: Objection, vague and ambiguous.
8 You can go ahead.

9 Q (BY MS. CLEMENT): What was other facility that
10 Bertha was working at?

11 A Emeritus at Citrus Heights.

12 Q Now, Peggy Stevenson testified that she was,
13 while working at Emeritus, also working part-time at
14 another Emeritus facility, a stand-alone memory care
15 unit. Do you remember her doing that?

16 A I do.

17 Q Okay. And Emeritus has told us in sworn
18 testimony that it was at your request that Ms. Stevenson
19 was working at the memory care unit part-time when she
20 was the full-time nurse at Emerald Hills; is that
21 correct?

22 A No.

23 Q How was it that Peggy ended up having to work in
24 other Emeritus facilities when she was your full-time
25 nurse at Emerald Hills?

1 A If there was not a nurse there, they would have
2 asked for her assistance in either covering or helping
3 to train.

4 Q And when you say "they," would ask, who do you
5 mean?

6 A Corporate, being regional or divisional.

7 Q Did you think that was fair to you as an
8 executive director when you got Peggy as a full-time
9 nurse for corporate to be saying now you have to send
10 her other places to help them out?

11 A No.

12 Q Did that hamper you in your ability to deliver
13 the care that Emeritus was promising to give to its
14 residents when your -- once you got Peggy full-time, you
15 had to send her other places?

16 MS. WELLS: Lacks foundation. Vague and
17 ambiguous. It's overly broad.

18 A It may have. I had certainly run the building
19 without and had one and would have wanted to keep one
20 full-time.

21 Q (BY MS. CLEMENT): What was your -- strike that.

22 Was it your understanding that Emeritus was
23 advertising that at their facilities, including Emerald
24 Hills, that they had a nurse available for the
25 residents?

1 MS. WELLS: Vague and ambiguous as to time.

2 A Yes.

3 Q (BY MS. CLEMENT): And that was true the whole
4 time you were the executive director at Emerald Hills?

5 A Yes.

6 Q When you were interviewing perspective residents
7 and their families, did you -- during time the times
8 that you didn't have a nurse or didn't have a nurse
9 full-time, did you tell those families that there
10 actually wasn't a nurse at that time, despite the
11 advertisement?

12 A Yes.

13 Q Did you tell families that there was only a
14 nurse part-time when the advertisement was a full-time
15 nurse?

16 A I would tell them whatever was applicable,
17 either part-time, reachable or we are currently hiring
18 for this position.

19 Q And did you modify their admission agreements to
20 reflect that there wasn't a nurse in the building?

21 MS. WELLS: Lacks foundation, calls for
22 speculation, assumes facts.

23 MR. CORDOVA: Vague and ambiguous.

24 A I don't remember something in resident
25 agreements specifying about the nurse.

1 Q (BY MS. CLEMENT): Prior to coming to Emeritus,
2 had you had any experience in auditing medication
3 administration records?

4 A No.

5 Q And during the time of your employment when you
6 went -- strike that.

7 I am going to lay a foundation with thi
8 question. You went for periods of time when you had no
9 nurse, correct?

10 MR. CORDOVA: Vague and ambiguous as to time.

11 A Correct.

12 Q (BY MS. CLEMENT): So over the course of your
13 employment, there were times when there was no nurse in
14 your building; is that true?

15 A True.

16 Q And when you first started at Emeritus, your
17 nurse was Tracy Lee Dekel?

18 A Correct.

19 Q And Ms. Dekel left within a month after you
20 started, correct?

21 A I don't remember the exact timeframe but sounds
22 reasonable.

23 Q And did Ms. Dekel tell you why she was leaving?

24 MR. CORDOVA: Objection. Asked and answered.

25 A I don't remember the conversation.

1 Q (BY MS. CLEMENT): Okay. Have you spoken with
2 anyone other than your attorney about your -- about this
3 case or your testimony --

4 MR. CORDOVA: I'm going to --

5 MS. CLEMENT: -- since last we met?

6 MR. CORDOVA: Sorry. I am going go ahead and
7 just make my objection for the record to the extent
8 that -- object to extent the record -- or the question
9 seeks information protected by the attorney/client
10 privilege and/or the work-product doctrine.

11 I'll also just instruct the witness on the
12 record not to disclose the contents of any
13 communications that we've had.

14 A Okay. Could you repeat the question please.

15 Q (BY MS. CLEMENT): Yes. I'm not asking you
16 about anything you discussed with your attorney.

17 A Okay.

18 Q I'm just asking you since we -- since you have
19 known about this lawsuit, have you spoken with anyone
20 about your testimony or this lawsuit?

21 A About my testimony, no. Prior to my subpoena
22 for deposition, I spoke with Peggy Stevenson. I don't
23 remember the context of the call. But she had mentioned
24 that she was being deposed. I was not yet involved in
25 that. And that was the extent of it.

1 Q Have you spoken with Ms. Stevenson since your
2 last deposition?

3 A No.

4 Q Does Ms. Stevenson still work with you at Vitas?

5 A No.

6 Q Do you know where Ms. Stevenson is working
7 today?

8 A I don't know where she is working today.

9 Q Do you know where she's working since she left
10 Vitas? Do you know where she went?

11 A She went to a hospice that was -- I don't
12 remember the name of it but more like the Grass Valley
13 area and then left there and went to a hospice that is
14 in Roseville called Bristol Hospice. But I don't know
15 if she is still there.

16 Q Emeritus has told us under penalty of perjury
17 that Tracy Lee Dekel left on July 5th, 2007. Does that
18 sound about right you to?

19 A About a month, yes.

20 Q Okay. And then they told us in sworn testimony
21 that you were -- Mary Kasuba was hired August 8, 2007.
22 Does that sound right to you?

23 A That sounds right.

24 Q Did you hire Mary Kasuba?

25 A I did.

1 Q Did you have any complaints or concerns about
2 Ms. Kasuba in her job performance?

3 A No.

4 MR. CORDOVA: Objection. Asked and answered.

5 MS. WELLS: Lacks foundation, overly broad.

6 A No.

7 Q (BY MS. CLEMENT): Did you find Ms. Kasuba to be
8 a caring nurse?

9 MR. CORDOVA: Objection. Asked and answered.

10 MS. WELLS: Vague and ambiguous.

11 A I found her to be caring, yes.

12 MS. CLEMENT: Did you find her to be competent?

13 A From what --

14 MS. WELLS: Objection, overly broad and lacks
15 foundation.

16 A From what I could see, yes.

17 Q (BY MS. CLEMENT): Did Ms. Kasuba express to you
18 great concern she had about the resident care?

19 MR. CORDOVA: I'm going to the object to the
20 question as having been asked and answered more than
21 once in the witness's first day of deposition.

22 A So her expression of concern came in the letter
23 that she sent that is one of our exhibits.

24 Q (BY MS. CLEMENT): Okay. That letter of
25 October 12th that you produced last time?

1 A Correct.

2 Q And prior to sending -- prior to you receiving
3 the letter of October 12th, had Ms. Kasuba spoken to you
4 about her concerns with regard to staffing issues in the
5 facilities, such as the med techs not being adequately
6 trained?

7 MR. CORDOVA: Objection. The question has again
8 been asked and answered.

9 A I don't remember the content of all of our
10 conversations. She may have. I just don't remember.

11 Q (BY MS. CLEMENT): Okay. Did Ms. Kasuba relate
12 to you that she was very concerned about staff shortage,
13 in other words, not being enough staff in the building
14 to care for the residents?

15 MR. CORDOVA: Objection. Asked and answered.

16 A I don't remember the content of our
17 conversations.

18 Q (BY MS. CLEMENT): So it's possible that she
19 told you, but you just don't remember today?

20 A I just don't remember today, correct.

21 Q Was it your recommendation to accept Mary
22 Kasuba's resignation on or about October 17, 2007?

23 MS. WELLS: Lacks foundation.

24 A I don't remember it was my recommendation. I
25 recall that she wanted to come back after her

1 resignation letter. And in discussion with regional and
2 divisional and HR, we agreed to accept her resignation.

3 Q (BY MS. CLEMENT): And was it your understanding
4 from reading Ms. Kasuba's letter that she -- and her
5 e-mail to you, that -- strike that last question.

6 Was it your understanding from your
7 communication with Ms. Kasuba, both her letter and her
8 e-mail to you and any verbal communication you had with
9 her in October of 2007, that she wrote her letter to the
10 corporate executives in Seattle with the offer that she
11 would remain onboard as the resident care director if
12 certain staffing conditions were met?

13 MR. CORDOVA: Vague and ambiguous.

14 MS. WELLS: Calls for speculation. The document
15 speaks for itself.

16 A So from the letter, that was clear. That was
17 what she was saying to all of corporate, but that wasn't
18 something that she had spoken to me specifically about.

19 Q (BY MS. CLEMENT): Okay. Did you have a
20 different understanding from speaking to Mary Kasuba?
21 In other words, she told corporate that she would resign
22 if these staffing changes were not made. In other
23 words, there was specific changes with regard to
24 increasing staffing and training.

25 Did she tell you something different than that?

1 A She called -- or I called. I don't remember who
2 called. But the day that she verbally resigned to me,
3 was a resignation. And then she followed that up with a
4 letter.

5 Q And that letter was the letter you produced last
6 time?

7 A Correct.

8 Q And did you speak with her after you received
9 the e-mail of her letter of October 12th, 2007?

10 A I may have. But I don't remember.

11 Q Did Ms. Kasuba come back to the facility after
12 the letter of October 12th, 2007?

13 A No.

14 Q Now, according to Emeritus' sworn testimony, in
15 discovery responses they claim that Ms. Kasuba continued
16 to work at Emeritus through November -- excuse me -- at
17 Emerald Hills. Strike that.

18 According to sworn testimony response in the
19 form of an interrogatory response, Emeritus says that
20 Ms. Kasuba worked from August 8, 2007, through
21 November 1st, 2007 at Emerald Hills. Was she -- does
22 that refresh your recollection whether Ms. Kasuba still
23 came and worked at the facility after her letter of
24 October 12th?

25 A No, I don't think that she did.

1 Q I'm showing you now what we previously marked as
2 Exhibit 158, page seven of that exhibit. Take a minute
3 to read that to yourself.

4 Have you had a chance to read that?

5 A I have.

6 Q Did you draft Exhibit number 158, page seven?

7 A Is that this?

8 Q Yes, the letter of October 17, accepting Mary
9 Kasuba's resignation.

10 A I don't remember if I drafted it or if I
11 completed a template from HR. I don't know if this was
12 my language but written by me.

13 Q Whose decision was it to accept Mary Kasuba's
14 resignation?

15 A I don't remember that it was one person. It was
16 in consult with my regional at the time, who I believe
17 was Kimberly Kent, and our HR and other regional people.

18 Q Did you have a regional nurse at the time that
19 Mary Kasuba's resignation was accepted?

20 A I don't remember.

21 Q Okay. And your regional would have been the
22 regional director of operations, Kimberly Kent?

23 A That would be regional director of ops, that
24 would be my direct -- my direct supervisor.

25 Q And was Audrey Withers your HR person at that

1 time?

2 A She was our HR person. I don't know if she was
3 at that time.

4 Q Did you speak with the vice-president of
5 operations, Catherine Ratelle, regarding Mrs. Kasuba's
6 letter of October 12th and the decision to accept her
7 resignation?

8 MS. WELLS: Compound.

9 MR. CORDOVA: Join.

10 A I don't remember, but I may have.

11 Q (BY MS. CLEMENT): Do you remember speaking with
12 Catherine Ratelle at all about Mary Kasuba's
13 October 12th letter and her concerns that she raised in
14 that letter?

15 A To Catherine Ratelle? I don't remember talking
16 to her about it. I may have.

17 Q How about Lisa Hulse? Did you speak with Lisa
18 Hulse, the vice-president of quality services or the
19 head nurse for California, about Mary Kasuba's letter of
20 October 12th?

21 A I don't remember. I may have if we didn't have
22 a regional.

23 Q And when you say regional, you mean a regional
24 nurse?

25 A Correct.

1 Q Were any of the -- have you read Ms. Kasuba's
2 letter recently?

3 A No.

4 Q So in -- we marked as Exhibit 331 a document
5 that you brought with you today. And can you tell me
6 what this document is?

7 THE VIDEOGRAPHER: Going off the record at 9:53
8 a.m.

9 (Whereupon a recess taken.)

10 THE VIDEOGRAPHER: Back on the record,
11 10:03 a.m.

12 Q (BY MS. CLEMENT): Okay. Have you had a chance
13 to read Exhibit 331, e-mail to you from Mary Kasuba, her
14 letter of October 12th and then some attachments dated
15 August 26th, 2007 from Ms. Kasuba to the Emerald Hills
16 med techs?

17 A I have.

18 Q And can you tell me what does Exhibit 331
19 represent?

20 MR. CORDOVA: Objection. Vague and ambiguous.

21 A This is a letter from Mary, looks like it's an
22 explanation e-mail to me of why the letter and then a
23 letter cc'd to corporate about her complaints about
24 working at Emeritus, the things she would like to change
25 and then attachments. Not sure. They look like things

1 she would have been putting in place dating back to
2 August. But I can only speculate, because I don't
3 remember seeing these.

4 MR. CORDOVA: Don't speculate.

5 A Okay.

6 Q (BY MS. CLEMENT): Where did you find the
7 attachments which you have marked -- which are dated
8 August 26th, 2007 from Ms. Kasuba to the med techs?

9 A So I don't remember finding the attachment.
10 What I found was the e-mail. And what it had said in
11 here was something about having trouble attaching, so I
12 am putting it below. So I didn't actually see the
13 attachment. It would have just been attached to the
14 e-mail.

15 Q So when you prepared to come to your deposition
16 today, did you go back and look through your old e-mails
17 and found these attachments?

18 A No, this is what I found in response to the last
19 time.

20 Q Okay. And it was just an oversight in your part
21 to produce it?

22 MR. CORDOVA: As I told you, just got lost in
23 the shuffle. I didn't give you by mistake.

24 MS. CLEMENT: I'm sorry. I just wanted to make
25 sure we had a record of that.

1 Q (BY MS. CLEMENT): So to the best of your
2 understanding, the attachment that was to Mary Kasuba's
3 October 12, 2007 letter were these letters to the med
4 techs dated August 2007.

5 A Correct.

6 Q Okay. And so I'll represent to you that looking
7 on calendar for 2007, October 12 was a Friday. Did Mary
8 Kasuba talk to you and tender her resignation on Friday,
9 October 12th, before you received these e-mails?

10 A I'm not certain. I think so. I do remember
11 speaking to her before getting a letter. But as far as
12 the date goes, I don't remember.

13 Q So if I can rephrase this accurately, you
14 remember speaking to Mary Kasuba about her concerns,
15 which prompted her to tender her resignation to you
16 sometime before you actually received this e-mail that
17 we have marked as Exhibit 331, dated October 12th at
18 11:36 p.m.?

19 MR. CORDOVA: Misstates prior testimony.

20 MS. WELLS: Join.

21 A The content of the conversation that was prior
22 to this was simply a resignation.

23 Q (BY MS. CLEMENT): Okay. And when she -- was
24 that resignation on the same day, Friday, October 12th?

25 A I just don't remember the date.

1 Q Okay. And do you see in the first line of her
2 e-mail to you, she said, "Today when we spoke this
3 afternoon, you stated that, 'Wish I hadn't done this
4 while you were gone.'" And she says then, "I think you
5 are referring to me talking about resigning and not
6 being present in the building."

7 Do you see that?

8 A Yes.

9 Q Did you have a face-to-face conversation with
10 Ms. Kasuba on October 12th?

11 A If that's the date she's referring to as
12 speaking, no. It was by phone.

13 Q Okay. And were you in the building on
14 October 12th, 2007, when you spoke to Ms. Kasuba?

15 A I was not.

16 Q Okay. Were you -- do you have a recollection
17 where you were when you received this phone call?

18 A I do.

19 Q And where were you?

20 A I was -- I don't remember the exact city -- on a
21 retreat with the other executive directors.

22 Q Do you see in the last line before Mary Kasuba
23 writes her, "In peace, Mary," her little signature
24 there, do you see the last sentence prior to that on the
25 first page is, "I do plan on coming in on Monday"?

1 A I do.

2 Q And did you tell Mary not to come in sometime
3 after you received this letter from her of October 12th?

4 A I don't remember speaking to her. But I don't
5 remember her coming in after that.

6 Q Okay. So is it possible that you advised
7 Ms. Kasuba not to come in after you received her
8 October 12th, 2007 e-mail?

9 MR. CORDOVA: Calls for speculation.

10 Q (BY MS. CLEMENT): And you just don't recall it
11 today?

12 A Correct, yes.

13 Q After you received this e-mail from Ms. Kasuba,
14 would you have immediately forwarded it to your regional
15 director of operations?

16 A I would have. But she was present.

17 Q Okay. And what do you mean by that?

18 A At the retreat where I was.

19 Q So you were at a retreat with other executive
20 directors for region one?

21 A Yes. And can I clarify?

22 Q Yes.

23 A You asked about forwarding this. I don't
24 remember that she was with me when I got this. I had
25 just spoken with Mary and verbally advised Kimberly.

1 Q Okay. So you were at this retreat, and there
2 were other executive directors from Emeritus there,
3 correct?
4 A Yes.
5 Q And Kimberly Kent was there?
6 A Yes.
7 Q Was Lisa Hulse there?
8 A No.
9 Q Was Catherine Ratelle present?
10 A No.
11 Q And was this a multi-day retreat or just a
12 single-day retreat?
13 A Multi-day.
14 Q And was it something where you had to stay
15 overnight in a hotel?
16 A Yes.
17 Q And you just don't remember the city it was in?
18 A No. Close. Between here and Calistoga.
19 Q What was your recollection of what the purpose
20 was of this retreat that you went to in October of 2007?
21 A Some training. We did some training. Some team
22 building. That was it.
23 Q Okay. Anyone else from regional, divisional or
24 executive corporate that was present at the October
25 retreat you were at when you received Mary Kasuba's

1 e-mail of October 12th, 2007, beside Kimberly Kent?

2 MR. CORDOVA: Objection, compound.

3 MS. WELLS: Misstates her testimony.

4 A Yes.

5 Q (BY MS. CLEMENT): Who else?

6 A Though the e-mail wasn't received while at the
7 retreat.

8 Q Okay. You got the e-mail when you got home?

9 A The phone call was received at the retreat.

10 Q Thank you. So you got the phone call through
11 retreat and you told Kimberly Kent about the phone call?

12 A Yes.

13 Q Was there anyone else from either the regional,
14 divisional or executive level who was at the retreat
15 besides Kimberly Kent?

16 A Yes.

17 Q Who else?

18 A Melissa Malek. That was it.

19 Q And was she sales and marketing?

20 A Yes.

21 Q And was this the sales and marketing retreat
22 that you referenced in your last deposition?

23 MR. CORDOVA: Objection. Vague and ambiguous.

24 A I don't know that this one was. We had done
25 another marketing training.

1 Q (BY MS. CLEMENT): Was this retreat that you
2 attended somewhere between here and Calistoga in October
3 of 2007, was that related to marketing and sales?

4 A Some of it was, yes.

5 Q And what else do you recall was, besides sales
6 and marketing, discussed or what other training did you
7 get besides sales and marketing in this October 2007
8 retreat?

9 A I don't remember that it was training so much as
10 team building.

11 Q What does that mean?

12 A Spending some time together, finding some common
13 interests, building relationships so that we could refer
14 to one another. There was a video watched.

15 Q Do you remember what the video was about?

16 A It was about a book called The Secret.

17 Q Anything else?

18 A That's it. Just lunch, dinner.

19 Q Was there any training on how to appropriately
20 staff your facility at this multi-day retreat?

21 A Not that I remember, no.

22 Q Did you ever get any training how to
23 appropriately staff your facility?

24 MS. WELLS: Vague and ambiguous, lacks
25 foundation.

1 MR. CORDOVA: Join.

2 A Not that I remember, no.

3 Q (BY MS. CLEMENT): What did Kimberly Kent say to
4 you in response to you advising her that you'd received
5 this telephone call from Mary Kasuba that she was
6 resigning?

7 MR. CORDOVA: Misstates prior testimony.
8 Assumes facts.

9 MS. WELLS: Join.

10 A Could you repeat the whole question please.

11 Q (BY MS. CLEMENT): I can. What do you remember
12 Kimberly Kent, your regional director of operations,
13 saying to you when you advised her that Mary Kasuba had
14 telephoned you that she was resigning?

15 MR. CORDOVA: Same objections.

16 A I don't remember everything she said, but she
17 did reassure me that we would get through it and
18 everything would be fine.

19 Q (BY MS. CLEMENT): And did Ms. Kent, herself,
20 leave Emeritus shortly thereafter?

21 A I don't remember her exact departure date. But
22 she did leave. And I believe I referred to it in my
23 last deposition. I just don't remember the dates.

24 Q Did Mary Kasuba come in on Monday, October 15,
25 that she stated in her e-mail to you of October 12th?

1 MR. CORDOVA: Objection. Asked and answered.

2 A Not that I remember.

3 Q (BY MS. CLEMENT): Did you disagree with any of
4 the staffing concerns that Ms. Kasuba brought up in her
5 letter of October 12th, 2007 to you and corporate
6 executives?

7 MS. WELLS: Assumes facts, overly broad. It's
8 vague and ambiguous.

9 MR. CORDOVA: Join.

10 A I don't think I disagreed with it. I knew there
11 were some staffing issues when I first started there,
12 and this was shortly thereafter. I do recall that it
13 seemed some of her requests were extensive and not
14 reasonable.

15 Q (BY MS. CLEMENT): And which requests did you
16 feel were unreasonable?

17 A I have to just quickly review, because I do
18 remember -- it seemed like she was requesting more
19 staffing than would be available, given the budget.

20 Q And the budget for staffing was not something
21 that you controlled; is that correct?

22 A Correct.

23 Q That was something that corporate controlled,
24 correct?

25 A Correct.

1 Q To your understanding, was it within corporate's
2 power to increase your budget for staffing?

3 MR. CORDOVA: Objection, calls for speculation.

4 MS. WELLS: Vague and ambiguous. It lacks
5 foundation.

6 A Yes.

7 Q (BY MS. CLEMENT): Was it your understanding
8 that it was within corporate's power to provide the
9 additional staffing that Mary Kasuba requested?

10 MR. CORDOVA: Same objection.

11 MS. WELLS: Vague and ambiguous.

12 A Within their power, yes. Not sure that they
13 would accommodate these requests.

14 Q (BY MS. CLEMENT): And, in fact, they didn't
15 accommodate those requests, correct?

16 A Correct.

17 MS. WELLS: Vague and ambiguous, lacks
18 foundation.

19 Q (BY MS. CLEMENT): Did corporate, in response to
20 Mary Kasuba's letter, give you more money in your budget
21 for staff?

22 MR. CORDOVA: Objection. Calls for speculation.
23 Vague and ambiguous.

24 MS. WELLS: Lacks foundation.

25 A No.

1 Q (BY MS. CLEMENT): Did corporate give you a
2 temporary -- strike that.

3 Did corporate provide registry nurses to you in
4 response to Mary Kasuba's request so that more med techs
5 could be trained and the medication could be passed out?

6 A No.

7 Q Did anyone from corporate call you and talk to
8 you about Mary Kasuba's concerns other than someone who
9 may have helped draft the acceptance of Mary's
10 resignation letter?

11 MR. CORDOVA: Vague and ambiguous. Misstates
12 prior testimony.

13 MS. WELLS: Join. Lacks foundation.

14 A Not that I remember outside of my regional team
15 that I spoke with and HR.

16 Q (BY MS. CLEMENT): What support, if any, do you
17 recall coming from your regional team in response to
18 Mary Kasuba's letter of October 12th, 2007?

19 MS. WELLS: Assumes facts. Lacks foundation.
20 Vague and ambiguous.

21 A Whatever, call it prompting, was the audit of
22 2007 to get a baseline of where we were and what we
23 needed.

24 Q (BY MS. CLEMENT): In that audit, was what
25 Emeritus called the CPR or comprehensive process review?

1 A Yes.

2 Q And do you have an independent recollection, in
3 general, about how that audit worked out?

4 A It was -- I remember that it prompted the
5 remodeling and moving of the med room to allow for more
6 room, which would allow for better organization. One of
7 the items identified was the insulin matter that I
8 previously talked about and the need to have the
9 in-house pharmacy process expedited. I don't remember
10 what else.

11 Q Was it true, to your knowledge, that Long's
12 Drugs would no longer supply residents' medications
13 because of Emeritus' failure to pay them promptly?

14 MR. CORDOVA: Assumes facts.

15 MS. WELLS: Lacks foundation and join.

16 A I do remember that.

17 Q (BY MS. CLEMENT): And that was something that
18 Ms. Kasuba mentioned in her letter of October 12th; is
19 that correct?

20 A Correct.

21 Q And what was your understanding of what was
22 going on with that situation that Emeritus wasn't paying
23 the Long's Drug Store that resulted in Long's saying,
24 "We aren't going to deliver medication to you anymore"?

25 A I don't remember, but I seem to recall that that

1 was resolved.

2 Q Who was responsible for paying the Long's Drug
3 Store from Emeritus? Was that your office or corporate?

4 MR. CORDOVA: Compound.

5 A It may have been our office in accounts payable.

6 Q (BY MS. CLEMENT): Do you recall?

7 A No.

8 Q Did you have any kind of a checking account that
9 you had control of at Emerald Hills when you were the
10 executive director?

11 A I didn't have a checking account, no.

12 Q What kind of funds were available to you, like
13 any kind of a bank account or petty cash or anything
14 like that, to pay for things that arose during the
15 course of operating the building?

16 A So there was petty cash, initially. I believe
17 they did away with that at one point. And I, along with
18 the other managers, had a small-limit credit card.

19 Q And that do you mean by a small-limit credit
20 card?

21 A I think it varied among the different managers.
22 And I don't remember what my limit was, but it may have
23 been 500.

24 Q And what happened to the residents' funds that
25 came in to Emeritus? For example, a resident pays

1 \$5,000 for their care for a month and the check is given
2 to the Emerald Hills when you were the executive
3 director. What is your understanding of what happens to
4 that resident's money?

5 MR. CORDOVA: Objection. Calls for speculation,
6 also asked and answered and answered on the first day of
7 deposition.

8 MS. WELLS: Join.

9 A So all put together and sent to corporate.

10 Q (BY MS. CLEMENT): And do you remember how it
11 would get sent to corporate?

12 A I don't.

13 Q And when you say corporate, you mean the Seattle
14 office?

15 A I do.

16 Q And who was Danielle that Mary Kasuba refers to
17 in the last page of her letter to you?

18 A She was our community relations director.

19 Q And the community relations director, that would
20 be the sales and marketing person in the building?

21 A Correct.

22 Q So that's the person who normally would be
23 responsible for giving tours and signing up new
24 residents?

25 A Correct.

1 Q And was Danielle's last name Stevenson?

2 A Yes.

3 Q And was she new to the position, or when Mary
4 Kasuba wrote this letter to you?

5 A I don't remember when she started and who
6 started relative to who of the two. Fairly new.

7 Q And was Danielle helping you to run the building
8 in terms of operations?

9 MS. WELLS: Vague and ambiguous, lacks
10 foundation.

11 MR. CORDOVA: Join.

12 A At times, she may have.

13 Q (BY MS. CLEMENT): Was she the person designated
14 by Emeritus to be in charge when you weren't in the
15 building?

16 MS. WELLS: Lacks foundation. Assumes facts.

17 A She may have been.

18 Q (BY MS. CLEMENT): I am going to show you now
19 what we have marked as Exhibit 330 and page three of
20 that exhibit. Can you tell me what that document is?

21 A Designation of facility responsibility. It's a
22 licensing form.

23 Q And in general, does that form tell Department
24 of Social Services who is in charge when the executive
25 director is not available?

1 A That's correct.

2 Q And on what date did you sign that document?

3 A November 1st, 2007.

4 Q And did you designate Danielle Stevenson as the

5 person responsible when you were no longer in the

6 building?

7 A I did.

8 Q And whose responsibility was it to designate

9 Danielle Stevenson as the person responsible when you

10 weren't there?

11 A I don't remember if it was mine alone but not

12 unusual to have either your CRD or your nurse step in at

13 that level.

14 Q Is that something that you would have run by

15 corporate or your regional director of operations?

16 A Yes.

17 Q That was a poor question. Is the assignment or

18 designation of --

19 A Facility.

20 Q -- facility responsibility, designating Danielle

21 Stevenson, is that something that you would have run by

22 your regional director of operations before submitting

23 to the state?

24 A Yes.

25 Q And did Danielle Stevenson have an RCFE

1 administrator license?

2 A I don't remember.

3 Q And who would Danielle Stevenson report to?

4 A Me.

5 Q Did she ever report to anyone besides you?

6 MR. CORDOVA: Vague and ambiguous.

7 Q (BY MS. CLEMENT): While you were executive
8 director, did you have Danielle Stevenson report to
9 anyone other than yourself?

10 A I think I referred in my previous deposition
11 about the dotted-line report. And because she was in
12 the marketing role, she would have dotted-line reported
13 to the regional marketing person.

14 Q Did you ever have Ms. Stevenson report to Alicia
15 Parga or Chris Garabaldi, the maintenance director?

16 A Report to?

17 Q Yes.

18 A No.

19 Q Was it your understanding that Emeritus expected
20 you and the other managers to fill in when there wasn't
21 caregiving staff available?

22 A Yes.

23 Q Did you ever have to work the night shift as a
24 result of there not being sufficient caregiving staff?

25 A I don't remember having to work the night shift

1 in that scenario. But being there, yes.

2 Q I don't know what you mean.

3 A If I had been called for an issue, a question, I
4 do know that I had been there on more than one occasion
5 during the noc shift.

6 Q Okay. So you did get calls and had to come to
7 the facility on the night shift, but you didn't actually
8 have to work as a caregiver on the night shift; is that
9 right?

10 A Yes.

11 Q Thank you. Who made the decision of what type
12 of a pay raise the med techs would get while you were
13 the administrator at Emerald Hills?

14 A It would depend on the amount of the raise.

15 Q Okay. And what do you mean by that?

16 A So within a certain amount, I could authorize
17 while still explaining -- I don't remember the exact
18 percentage, but if it was beyond that, I'd have to
19 submit for approval.

20 Q Did you ever make a request to corporate to have
21 an employee receive a higher percentage of their current
22 salary as a raise?

23 A Can you say that again?

24 Q Yeah. Did you ever make a request to corporate
25 that any of your employees get a higher percentage raise

1 than you were allowed to give?

2 A Yes.

3 Q And do you remember who you requested that for?

4 A I don't remember -- it may have been more than
5 one. But I do recall with regards to a dining services
6 employee coming from another building to ours.

7 Q And was that because the dining services
8 employee was on a higher pay scale at the other
9 facility?

10 A I don't remember if it was to match or if it was
11 to give a raise. I believe it was a step up for him.

12 Q Ms. Kasuba, in her letter, refers to this as an
13 Agnes Fitch issue. Do you remember that Agnes Fitch was
14 a resident at Emeritus during your tenure?

15 A I do.

16 Q And do you remember that Agnes Fitch was a
17 resident for whom you had to report to the state an
18 unusual incident report?

19 A I do.

20 Q And was it your understanding that Ms. Fitch had
21 congestive heart failure?

22 A In review since, yes.

23 Q And was it your understanding that Ms. Fitch
24 went eight-and-a-half days without receiving her
25 diuretic Lasix for her congestive heart failure while at

1 Emerald Hills?

2 A Correct.

3 Q And was it your understanding that once it was
4 learned that Ms. -- strike that.

5 Was it your understanding that it was Ms. Kasuba
6 who discovered that Mrs. Fitch had gone eight-and-a-half
7 days without her medication for congestive heart
8 failure?

9 A I don't remember that it was Mary that
10 discovered it. She may have.

11 Q Did Mary report this discovery to you that
12 Mrs. Fitch had gone eight-and-a-half days without her
13 Lasix medication for her congestive heart failure?

14 A She did.

15 Q And in response to that -- strike that.

16 Did -- was Ms. Kasuba very concerned about the
17 Agnes Fitch resident not receiving her congestive heart
18 failure medication for eight-and-a-half days?

19 MS. WELLS: Vague and ambiguous, lacks
20 foundation.

21 MR. CORDOVA: Calls for speculation.

22 A She expressed that she was.

23 Q (BY MS. CLEMENT): And were you, too, concerned?

24 A Oh, absolutely.

25 Q And was Mrs. Fitch's physician notified?

1 A I don't know. I don't remember at what time the
2 physician was notified. But at that point, the
3 physician was notified. I just don't remember prior.

4 Q (BY MS. CLEMENT): Okay. Right. So after you
5 and Ms. Kasuba learned about Mrs. Fitch going
6 eight-and-a-half days without her congestive heart
7 failure medication, someone from the facility notified
8 her physician?

9 A Correct.

10 Q And was it your understanding that her physician
11 ordered her to be transferred to the hospital?

12 A Yes.

13 Q And it was your understanding when she came back
14 from the hospital, she was put on hospice?

15 A Yes.

16 Q And then shortly thereafter, she passed away?

17 A Yes.

18 Q And was it your understanding that there was a
19 lawsuit brought from -- by Mrs. Fitch's family?

20 A Yes.

21 Q And in response to that lawsuit being brought,
22 were you required to send Ms. Kasuba's records to
23 corporate headquarters in Seattle?

24 A Do you mean Mrs. Fitch?

25 Q Did I say Ms. Kasuba? I did.

1 Okay. In response to Mrs. Kasuba's family
2 bringing a lawsuit after she passed away, were you
3 required to bring -- to send Mrs. Fitch's Emerald Hills
4 records to Seattle corporate office?

5 MS. WELLS: Lacks foundation.

6 MR. CORDOVA: Misstates prior testimony.

7 A I do remember the request for records coming. I
8 don't remember that I was the one that prepared them.
9 But I notified regional and/or divisional, whoever was
10 in place at the time.

11 Q (BY MS. CLEMENT): Who -- strike that.

12 When a family member normally requested
13 records -- strike that.

14 When a family or resident requested records, who
15 at Emerald Hills would put those records together?

16 A I don't remember that somebody in Emerald Hills
17 did or if -- just trying to remember if we -- if we were
18 instructed how to or if somebody came and got them.

19 Q Were you still working at Emerald Hills when
20 Mrs. Boice's family requested her records?

21 A No.

22 Q Looking at the attachments to Ms. Kasuba's
23 letter to you dated August 26th, 2007, were these
24 letters to the med techs guidelines that Mary Kasuba
25 enacted in response to the Agnes Fitch incident where

1 she went without her medication or --

2 MR. CORDOVA: Calls for speculation.

3 MS. CLEMENT: For more than a week.

4 MR. CORDOVA: Calls for speculation.

5 A I don't remember these. So I don't remember
6 what her motivation was. It looks like something she
7 would have been putting in place upon her arrival or
8 shortly thereafter. But I would be speculating.

9 Q (BY MS. CLEMENT): Okay. I will represent to
10 you that according to the unusual incident report that
11 you have forwarded to the Department of Social Services,
12 that you first learned of Agnes Fitch not receiving her
13 medication on August 25th, 2007.

14 A Um-hum.

15 Q Does that refresh your recollection as to
16 whether these guidelines that Mary Kasuba created were
17 put in place in response to the Agnes Fitch issue?

18 A The date would make sense, but I couldn't say
19 for sure. I don't remember these.

20 Q Okay. And where would these guidelines be kept
21 in the facility that Mary Kasuba wrote on August 26th,
22 2007?

23 MS. WELLS: Assumes facts and calls for
24 speculation.

25 A I don't remember how instructions like these

1 were left in the med room, if they were posted or put in
2 a binder.

3 Q (BY MS. CLEMENT): Okay. And was it your
4 understanding that whenever there was a medication
5 error, the facility nurse was to report that to the
6 resident's physician?

7 A Yes.

8 Q And was it your understanding that the facility
9 nurse, one of her responsibilities was to oversee the
10 med techs, administration of medication to the
11 residents?

12 A Yes.

13 Q And that -- strike that.

14 And that oversight by the facility nurse
15 included doing regular audits to make sure that the
16 residents were receiving their medications as ordered?

17 A Yes.

18 Q And how frequently did you expect the facility
19 nurse --

20 A Sorry.

21 Q That's okay.

22 A Excuse me.

23 Q That's okay. How frequently was it your
24 expectation that the facility nurse would conduct
25 resident record audits to make sure the -- strike that.

1 How frequently did you expect the facility nurse
2 to audit the medication administration records?

3 A I don't know if I had a specific. I would
4 expect monthly, but I can't remember what the
5 instruction was.

6 Q And when you say you can't remember what the
7 instruction was, do you mean you can't remember what
8 Emeritus' policy was?

9 A Correct.

10 Q And when you went without a nurse, whose
11 responsibility was it to audit the medication
12 administration records of the residents?

13 A I would expect the med techs to have, but I'm
14 not sure.

15 Q Were you ever trained on how to audit medication
16 administration records by Emeritus?

17 A I don't remember formally. But looking at a
18 medication administration record, you would be able to
19 see if there were blanks on it. But as far as formal
20 training, I don't remember.

21 Q Other than looking to see if there were blanks
22 that indicated that a resident hadn't actually received
23 their medication as ordered, did you know anything else
24 about how to audit a medication administration record
25 during your administration at Emerald Hills?

1 MS. WELLS: Assumes facts.

2 MR. CORDOVA: Join.

3 A I'm sorry. Could you just say the question
4 again.

5 Q (BY MS. CLEMENT): Yes. Was it your
6 understanding that if there was a blank on the
7 medication administration record, meaning that the med
8 tech hadn't initialed that they had given the
9 medication, that was a med error?

10 A Not necessarily. It may have been somebody
11 refused a medication, and we would want that to be
12 communicated, as well, to the physician.

13 Q And what did you understand in terms of
14 documentation the med techs were supposed to do when a
15 resident refused medication?

16 A I can't remember specifically. But I would
17 expect to see some notation, perhaps, on the back of the
18 MAR of why.

19 Q So if there is a blank spot on the medication
20 administration record, to you, that meant that either
21 the resident didn't get their medication or there was a
22 refusal?

23 MR. CORDOVA: Misstates prior testimony.

24 A So didn't get it, but reason why could be
25 refused.

1 Q (BY MS. CLEMENT): And if there as refusal by
2 the resident, that needed to be recorded on the back
3 side of the MAR and the physician needed to be informed?

4 A Yes.

5 Q Did the family, too, need to be informed?

6 A I don't know.

7 Q Was it your understanding that you were ever
8 supposed to audit the MARs?

9 A At some point, I don't know what caused it or
10 what prompted it, but I do recall beginning to look at
11 them.

12 Q Was it ever told to you that it was an
13 expectation that you were supposed to do regular audits
14 of the medication administration record?

15 A I don't remember that.

16 Q As part of your job -- strike that.

17 Did you in your -- strike that.

18 You were working 60 hours a week as the
19 administrator?

20 MR. CORDOVA: Asked and answered.

21 A At times, yes.

22 Q (BY MS. CLEMENT): Did you have time to, in
23 addition to your other duties, be doing regular audits
24 of the medication administration records?

25 MS. WELLS: Lacks foundation.

1 A I don't remember.

2 Q (BY MS. CLEMENT): Okay. And when there were
3 medication errors, was that something you were supposed
4 to report to the Department of Social Services?

5 A Yes.

6 Q When you would go without a nurse in your
7 building, would you take over the job of auditing the
8 MARs?

9 A I just don't remember doing so.

10 Q So the best of your recollection is that you
11 would not assume the nurses' responsibilities of
12 auditing the medication administration records when you
13 didn't have a nurse in the building?

14 A Correct.

15 Q When you didn't have a nurse in the building,
16 who was developing the care plans for the residents?

17 MS. WELLS: Assumes facts. Lacks foundation.

18 A I just don't remember. I know that Alicia was
19 overseeing the caregivers, the resident assistants.
20 Care plans would have been in place prior. I just don't
21 remember. It's very vague. But I believe care plans
22 were in place.

23 Q (BY MS. CLEMENT): I will represent to you that
24 Peggy Stevenson testified that when she came on duty as
25 the facility nurse in March of 2008, she testified that

1 there weren't care plans for all the residents at that
2 time.

3 MR. CORDOVA: Argumentative.

4 Q (BY MS. CLEMENT): Does that refresh your
5 recollection that there weren't always care plans for
6 the residents?

7 MS. WELLS: Misstates her testimony. Lacks
8 foundation. Calls for speculation.

9 MR. CORDOVA: Argumentative.

10 A I can't even remember what the care plans looked
11 like. I don't remember. It's possible there were some
12 that weren't up to date or in place, but I just don't
13 remember.

14 Q (BY MS. CLEMENT): Was it your understanding
15 that whenever a resident had a change in condition, that
16 the care plan needed to reflect a reappraisal by the
17 facility nurse and an update to the care plan would be
18 made?

19 MS. WELLS: Overly broad. It's vague and
20 ambiguous.

21 A Yes.

22 Q (BY MS. CLEMENT): And when you didn't have a
23 nurse in the building, who was conducting the
24 reappraisals of the resident?

25 A I just don't remember if it was Alicia, if it

1 was a nurse from another building or if it was simply
2 taking the instructions from the doctor or the family,
3 based on what had changed and updating the care plan.
4 But I just don't remember. I'm not even able to
5 visualize the care plan.

6 Q Did you ever do reappraisals of residents when
7 they had a change in condition?

8 A I don't remember, but I may have.

9 Q So as you sit here today, do you have a
10 recollection of ever doing any reappraisals or
11 assessments of residents when they had a change in
12 condition?

13 MR. CORDOVA: Asked and answered.

14 A I just don't remember, but I certainly may have.

15 Q (BY MS. CLEMENT): Did you have training from
16 Emeritus on how to do an appraisal or evaluation or
17 assessment of a resident when they had a change in
18 condition?

19 MR. CORDOVA: Objection. Compound.

20 MS. WELLS: Join.

21 A Not that I remember.

22 Q (BY MS. CLEMENT): Did you have training from
23 anyone on how to do a resident assessment when they had
24 change in condition?

25 MR. CORDOVA: Vague and ambiguous.

1 A Not that I remember.

2 Q (BY MS. CLEMENT): Did you feel qualified when
3 you worked at Emeritus/Emerald Hills to do resident
4 appraisals?

5 A Not that I remember. It depends on what was
6 going on with the resident.

7 Q What do you mean by that?

8 A If it was a matter of somebody is needing more
9 showers per week, that's fairly straight forward and
10 assessable. If it's something more clinical, no.

11 Q Okay. How about if a resident was experiencing
12 skin breakdown? Is that something that you felt
13 qualified to do an assessment or appraisal of?

14 MR. CORDOVA: Objection. Asked and answered.

15 MS. WELLS: Join. It lacks foundation.

16 A I would expect to be able to notice a reddened
17 area and be aware of the risk for that. But in terms of
18 assessing skin integrity, no.

19 Q (BY MS. CLEMENT): And if -- did you ever look
20 at the residents' skin as a regular part of your
21 administration of Emerald Hills?

22 A No.

23 Q Did you ever look at residents' skin to observe
24 whether there was any skin breakdown during your
25 administration at Emerald Hills?

1 A No.

2 Q Did you ever develop any kind of care plan to
3 address risk of skin breakdown for residents at Emerald
4 Hills?

5 A Not that I remember.

6 Q And was it your understanding that Emeritus used
7 the term care plan and service plan interchangeably?

8 A Yes.

9 Q And are you doing that in your responses?

10 A I am.

11 Q I am too, so I just want to make sure that was
12 clear.

13 How about weight loss? Was that a risk factor
14 that you felt comfortable in assessing of a resident?

15 A How do you mean risk factor?

16 Q Okay. So did you have an understanding when you
17 were administering Emerald Hills that weight loss was a
18 risk factor for a resident to have a negative outcome?

19 MS. WELLS: Vague and ambiguous. Lacks
20 foundation. Overly broad.

21 MR. CORDOVA: Join.

22 A Negative outcome. I'm not sure what you are
23 referring to.

24 Q (BY MS. CLEMENT): All right. Were you given
25 any training at Emeritus that unexplained weight loss

1 was a quality indicator?

2 A Training, no. But certainly if somebody was
3 losing weight, we would want that brought to our
4 attention.

5 Q Okay. And what was your understanding as to why
6 you would want it to be brought to your attention if a
7 resident was losing weight?

8 A So we could understand why.

9 Q And what, to your understanding, was important
10 about understanding why a resident was losing weight?

11 A Well, understanding is it intended weight loss,
12 is it the result of an illness, is it the result of
13 dentures not fitting properly, something to that extent?
14 Just understanding was there a medical reason for it, a
15 social reason for it.

16 Q Were you given any training by Emeritus on how
17 to assess why a resident was losing weight?

18 A No, not that I remember.

19 Q Did you have any prior training before coming to
20 Emeritus on how to assess a resident who was losing
21 weight?

22 A Could you just repeat the question?

23 Q Yes. Did you have any training prior to coming
24 to Emeritus as to how to assess why a resident was
25 losing weight?

1 A Not that I remember. And I don't mean to say it
2 this way, but there was just a common-sense element of
3 is it because of an illness or because they have stopped
4 eating for another reason or is it eating and still
5 losing weight? Is that the matter?

6 Q And did you have in place any method of
7 monitoring the residents for weight loss?

8 A I believe there was a monthly weight log.

9 Q And was that your understanding as to how you,
10 as the administrator, were ensuring that the residents'
11 risk for weight loss was being monitored?

12 A I would expect it to be reported to me if there
13 was a weight loss.

14 Q And who did you expect to report that to you?

15 A Either the manager of that department, and if
16 there was no manager, then a resident assistant or med
17 tech, whoever had possession of the weight log.

18 Q And what did you do as the administrator to
19 ensure that the residents were being weighed on a
20 monthly basis?

21 A I don't remember that I had to do something to
22 ensure it. It was something that was expected and done.

23 Q Do you have any explanation as to why Mrs. Boice
24 was never weighed at Emeritus?

25 MR. CORDOVA: Objection.

1 A I don't.

2 MR. CORDOVA: Argumentative.

3 MS. WELLS: Calls for speculation.

4 Q (BY MS. CLEMENT): Did you expect the residents'

5 weight to be recorded in their permanent record at

6 Emerald Hills?

7 A I did, but I can't remember where.

8 Q Did you ever do any care planning of residents

9 who were experiencing unexplained weight loss?

10 A Not that I remember.

11 Q When you didn't have a nurse in the building,

12 who did you -- strike that.

13 Did you expect the nurse to do care planning for

14 unexplained weight loss when you had a nurse?

15 MS. WELLS: Assumes facts. Lacks foundation.

16 A Yes.

17 Q (BY MS. CLEMENT): And when you didn't have a

18 nurse, who did you expect to do the care plan for

19 unexplained weight loss?

20 A I don't know. I just don't remember at the

21 time. But whoever was covering it at the time, it was

22 Alicia or a nurse that would be visiting from another

23 building.

24 Q (BY MS. CLEMENT): Did you think Alicia Parga

25 was qualified to develop care plans?

1 MS. WELLS: It's vague and ambiguous. Lacks
2 foundation, overly broad.

3 MR. CORDOVA: Join.

4 A And again, I just don't remember the development
5 of the care plan process. So I can't say for certain,
6 no.

7 Q (BY MS. CLEMENT): Did you express to other
8 employees of Emeritus that you had concerns about Alicia
9 Parga's qualifications to be the memory care director?

10 A Qualifications?

11 Q Yes.

12 A No.

13 Q Did you ever express to other employees of
14 Emeritus that you had concerns about Mrs. Alicia Parga's
15 ability to be the memory care director?

16 MS. WELLS: It's been asked and answered.

17 A I don't remember expressing a concern to the
18 employees about it. But I do recall having -- I don't
19 remember if a written or just a verbal plan in place
20 with Alicia to follow up on her day-to-day tasks.

21 Q And why did you have a plan with Alicia to
22 follow up on her day-to-day tasks?

23 A It was a mutual agreement that she sometimes
24 needed redirection and refocusing to complete her tasks.

25 Q Did you feel that Alicia was qualified to lead

1 in-service training at Emerald Hills?

2 MS. WELLS: Lacks foundation. Overly broad.

3 A Depending on the topic, yes.

4 Q (BY MS. CLEMENT): And what do you mean,
5 depending on the topic?

6 A Well, it would depend on whether or not she had
7 demonstrated that she was good at doing activities,
8 programming, resident care.

9 Q Was it your understanding while you were the
10 administrator at Emerald Hills there was legally
11 mandated training, in-service training, that had to take
12 place for all the staff?

13 A Yes.

14 Q Did you think that Alicia Parga was qualified to
15 give the legally mandated in-service training?

16 MS. WELLS: Lacks foundation. Calls for
17 speculation. Overly broad.

18 MR. CORDOVA: Join.

19 A Again, depending on the specific topic, yes.

20 Q (BY MS. CLEMENT): And what, to your
21 understanding, qualified Alicia Parga to give the
22 legally mandated in-service training as required by the
23 department of social services?

24 MS. WELLS: Lacks foundation, overly broad,
25 calls for a legal conclusion.

1 MR. CORDOVA: Join.

2 A Having been a care provider there, having
3 experience taking care of residents with dementia and
4 being the manager of that department, having attended a
5 regional training on dementia.

6 Q (BY MS. CLEMENT): Do you know how long in --
7 after Mrs. Parga had been employed that she got the Join
8 Their Journey training that was Emeritus' signature
9 training and dementia program?

10 A I don't know.

11 Q How long after you had been employed did you get
12 the Join Their Journey training?

13 A I don't remember the training, so I can't say
14 for sure.

15 Q Do you remember that you actually participated
16 in teaching the Join Their Journey training, and it was
17 also the first time that you had been exposed to the
18 Join Their Journey training in the last month that you
19 were at Emeritus in 2008?

20 A I remember providing the training. I don't
21 remember that that was the first time giving or hearing.
22 But I do remember participating in that.

23 Q Do you have a recollection of actually having
24 the training before the time that you participated in
25 giving the training in December, I believe it was the

1 10th of 2008?

2 A Not that I remember, no.

3 Q Do you know what Maslow's hierarchy of need is?

4 A The term is familiar. It's just been a long
5 time since I have heard it.

6 Q Did you get any training with regard to Maslow's
7 hierarchy of need as the administrator of Emerald Hills?

8 A I don't remember.

9 Q Is that something that you most likely learned
10 as part of your schooling?

11 A Yeah, it's very familiar. And it may be from
12 school.

13 Q Do you recall cautioning your direct reports
14 that they were not to tell anyone that Emerald Hills did
15 not have the number of staff that they are supposed to
16 have on duty?

17 MR. CORDOVA: Objection. Asked and answered.

18 A I don't remember instructing them. I do
19 remember from the last deposition that there was the
20 in-service log and what I had referred to in it was the
21 context of not sharing their complaints with residents.
22 That's not why they were there.

23 Q (BY MS. CLEMENT): Do you recall telling other
24 directors at Emeritus, meaning department heads, that
25 they were not to tell anyone that Emerald Hills did not

1 have the staff that was needed to meet the needs of the
2 residents?

3 MR. CORDOVA: Objection.

4 MS. WELLS: Lacks foundation.

5 MR. CORDOVA: Asked and answered.

6 A No.

7 Q (BY MS. CLEMENT): Did you ever -- strike that.

8 Did you instruct your community relations
9 directors that worked for you during your administration
10 to continue to recruit new residents even when there was
11 not sufficient staff to meet the needs of the residents
12 who were already in the building?

13 MS. WELLS: It's vague and ambiguous, overly
14 broad and lacks foundation. Calls for speculation.

15 A The expectation is that we were always
16 recruiting to have residents move in.

17 Q (BY MS. CLEMENT): And whose expectation was
18 that?

19 A Regional, divisional, the company. Just the
20 expectation.

21 Q After Mary Kasuba sent her letter of
22 October 12th, 2007, did anyone from Emeritus that was
23 above you -- so did anyone from Emeritus corporate tell
24 you not to admit any new residents until they got the
25 staffing issues sorted out?

1 A No.

2 Q After the Agnes Fitch incident, did anyone from
3 corporate tell you to stop admitting new residents until
4 you could get the concerns regarding the administration
5 of medication sorted out?

6 MS. WELLS: Lacks foundation. Assumes facts.

7 A Could you just repeat what the actual question
8 was?

9 Q (BY MS. CLEMENT): Yes. After the Agnes Fitch
10 incident, did anyone from corporate tell you to stop
11 admitting new residents until they could conduct an
12 audit and find out what was going on with the
13 administration of medication at Emerald Hills?

14 A No.

15 Q At any time during the course of your employment
16 at Emerald Hills, did anyone tell you to stop admitting
17 new residents?

18 A No.

19 Q Did you feel pressure from corporate to continue
20 to admit new residents at all times?

21 A Yes.

22 Q Did you feel pressure from corporate to keep
23 residents in the facility and avoid residents moving
24 out?

25 MS. WELLS: Lacks foundation.

1 MR. CORDOVA: Compound.

2 Q (BY MS. CLEMENT): Did you feel pressure from
3 Emeritus corporate to prevent residents from moving out?

4 MS. WELLS: Lacks foundation.

5 A Yes.

6 Q (BY MS. CLEMENT): Can you explain that.

7 A Yes. If there was a resident acuity issue, we
8 would want -- we -- sorry -- executive directors would
9 be expected to identify the upcoming risk of that and
10 notify our regional nurse and regional director of
11 operations so that we could determine if there were
12 options to explore to keep somebody. And other than
13 that, if there were simply financial reasons causing
14 somebody to want to move out or social reasons but -- so
15 resident acuity, social or financial, yes.

16 Q And did you have communication with Lisa Hulse,
17 the divisional nurse or the head nurse for California,
18 about keeping residents in the facility with high
19 acuity?

20 MS. WELLS: Lacks foundation.

21 A I don't remember specifically with Lisa, but I
22 wouldn't be surprised simply because she is divisional.
23 Sorry.

24 Q (BY MS. CLEMENT): Okay. Did you feel pressure
25 from corporate to keep residents in the facility who

1 were high acuity?

2 MS. WELLS: Lacks foundation. Overly broad.
3 It's vague and ambiguous.

4 MR. CORDOVA: Join.

5 A Yes.

6 Q (BY MS. CLEMENT): Going back to the issue of
7 the insulin injections, was it your understanding that
8 residents who weren't able to self-administer their
9 insulin were having med techs administer their insulin?

10 A I don't know that it was administered in terms
11 of injecting. What I had identified was the drawing up
12 of the insulin, which in and of itself was not correct.

13 Q And you knew it wasn't correct because the med
14 techs didn't have the training or licensure to do that?

15 A Correct.

16 Q And was Bertha Bell, when she was working in
17 your facility, expected to come in every day to draw up
18 and, if necessary, administer insulin for those
19 residents who were on daily doses of insulin?

20 A Yes.

21 MS. WELLS: Assumes facts.

22 A Yes.

23 Q (BY MS. CLEMENT): Did Bertha Bell complain to
24 you that she couldn't come into the facility every day
25 to draw up and administer insulin for those residents

1 who needed it daily?

2 MS. WELLS: Assumes facts.

3 A No, but could I explain or clarify?

4 Q (BY MS. CLEMENT): Sure.

5 A The plan was to work to get those who were
6 getting daily injections, for those who were able, to
7 transition to a self-inject or an insulin pen that they
8 could manage themselves.

9 THE VIDEOGRAPHER: This ends tape number one of
10 volume two of the deposition Nancy Cordova. We are
11 going off the record at 1:13 a.m (sic).

12 (Whereupon a recess taken.)

13 THE VIDEOGRAPHER: We are on the record at
14 11:26 a.m. The date is August 13, 2012. This begins
15 tape number two, volume number two, of the deposition of
16 Nancy Cordova.

17 Q (BY MS. CLEMENT): Was Ms. Bertha Bell gone
18 after -- strike that.

19 Is Bertha Bell, when she resigned over the
20 insulin incident that you described for us, was the next
21 nurse you got into the facility Peggy Stevenson?

22 A Yes.

23 Q Did Bertha Bell ever come back to the facility
24 to work again after the insulin incident which led to
25 her resignation?

1 A No.

2 Q Did you report the insulin incident to the
3 Department of Social Services community care licensing
4 as an unusual incident report?

5 A I don't remember, but I would have expected I
6 did. I just don't remember filling one out.

7 Q Can you tell me generally what you understood
8 you were to be reporting to the state as an unusual
9 incident or occurrence?

10 MR. CORDOVA: Calls for a narrative.

11 A So anything to do with a resident going to the
12 hospital or something happening with a resident that was
13 outside of what was considered usual, something that
14 might happen building-wide. That usually covered quite
15 a bit. So I'm not sure if there was anything else.

16 Q (BY MS. CLEMENT): So, for example, if a
17 resident developed pressure ulcers, that is something
18 that you would report to the state?

19 A Yes.

20 Q If a resident had an unexplained weight loss of
21 greater than five percent of their body weight, is that
22 something that you would report to the state?

23 A I would expect to, yes.

24 Q And if a resident had a fall with injury, would
25 you report that to the state?

1 A Yes.

2 Q If there was any sort of regulatory compliance
3 issue, for example, if you learned that there had been a
4 regulation violated such as the insulin incident, is
5 that something that you would report to the state?

6 A Yes.

7 MR. CORDOVA: Asked and answered.

8 MS. WELLS: Lacks foundation, overly broad.

9 Q (BY MS. CLEMENT): If a resident became
10 bedridden after they were admitted to the facility, is
11 that something that you would report to the state?

12 A Yes.

13 Q If a resident fell out of a second-story or
14 third-story window at Emeritus, is that something that
15 you would report to the state?

16 A Yes.

17 Q Would you report to the state if a resident had
18 a fecal impaction?

19 A Yes.

20 Q If a resident developed contractures and was no
21 longer able to ambulate, would you report that to the
22 state?

23 A I would expect to, yes. I just don't remember
24 those instance.

25 Q Were you to report to the state whenever one of

1 your residents died?

2 A Yes.

3 Q Did you have any internal method of tracking
4 resident incidents or events?

5 A Yes.

6 Q What was that?

7 A I don't remember what it was called but an
8 internal-type of incident report would be completed and
9 faxed to -- I don't remember who it was faxed to.
10 Corporate.

11 Q So do you remember that you had some type of a
12 resident event form that you needed to complete if a
13 resident was injured or had significant change in
14 condition such as one you would have to report to the
15 state, and that would have to be faxed to Seattle?

16 A Yes.

17 Q Were you required as the administrator at
18 Emerald Hills to track unusual incidents in a facility,
19 for example, looking for trends such as, you know,
20 residents falling with injuries and things like that?

21 A I don't remember if I -- could you just repeat
22 the top of the question for me please.

23 Q Yes. Were you required, as the administrator,
24 to track unusual occurrences, such as residents' falls
25 with injuries in order to evaluate trends that would be

1 happening in the facility?

2 A I don't remember if that was my sole
3 responsibility or the nurse. But I remember there was a
4 tracking log that was either e-mailed or faxed to the
5 regional nurse.

6 Q Was there a regional nurse when you first
7 started for your region?

8 A I don't think so.

9 Q Was the first regional nurse that you knew of
10 Doris Marshall?

11 A No.

12 Q Was it Corlis Tillman?

13 A It was.

14 Q Okay. Thank you. Sorry. So when you first
15 started, you didn't have a regional nurse. And then
16 Corlis Tillman became nurse and then Doris Marshall?

17 A Yes, but I don't remember when Corlis started.
18 I don't remember there was one prior though.

19 Q Was there ever a time period when you had no
20 facility nurse and no regional nurse both at the same
21 time?

22 A There may have been. I don't remember.

23 Q Did you ever ask Peggy Stevenson to leave a
24 facility and go assess residents in other facilities
25 that were -- strike that.

1 When I say other facilities, I mean Emeritus
2 facilities. Do you understand that?

3 A Yes.

4 Q As administrator, did you ever ask Peggy
5 Stevenson to leave Emerald Hills and go do assessments
6 of potential new residents at any other Emeritus
7 facilities?

8 A I may have, but I don't remember specifically.

9 Q If you -- if Peggy had gone to other Emeritus
10 facilities to do resident assessments for a potential
11 new resident, is that something that would have been
12 orchestrated by the regional department or yourself?

13 MR. CORDOVA: Lacks foundation.

14 A Regional.

15 Q (BY MS. CLEMENT): Do you remember either the
16 regional or divisional nurse requesting or operations
17 person requesting that Peggy go to other facilities and
18 do preadmission assessments or evaluations?

19 MR. CORDOVA: Compound.

20 MS. CLEMENT: Is the compound that -- your
21 concern assessment or evaluation?

22 MR. CORDOVA: It's the whole question.
23 Objection.

24 Q (BY MS. CLEMENT): Did anyone from the regional
25 department ask you to send Peggy to other facilities to

1 do preadmission evaluations of residents?

2 A They may have. I don't remember a specific
3 instance.

4 Q How about your other nurses that worked for you,
5 Bertha Bell and Mary Kasuba? Did regional ever ask you
6 to send them to other facilities?

7 MR. CORDOVA: Misstates prior testimony.

8 A Not that I remember.

9 Q (BY MS. CLEMENT): Did you ever have employees
10 from other facilities other than a nurse, Bertha Bell,
11 come to and work in your facility?

12 A Yes.

13 Q Okay. Who beside Bertha Bell ever came and
14 worked in your facility?

15 A I don't remember the name but dining services
16 staff.

17 Q And what -- was it more than one person?

18 A May have been, but I don't believe it was more
19 than two.

20 Q Okay. And do you recall what position the
21 dining services staff that came into your facility to
22 work were, what positions they held?

23 A I think it was cook.

24 Q And was this just on a loaner to you until you
25 could get a cook?

1 A Yes. And if I could clarify, I don't know if it
2 was a duration of time or if it was cook has a day off,
3 didn't have somebody to fill in, somebody came for a day
4 or two.

5 Q Okay. Did you have any control over your daily
6 budget for raw food for the residents?

7 A No.

8 Q Was it your understanding that your raw food
9 budget was about four to five dollars a day per
10 resident?

11 A I would be guessing. I'm sorry.

12 Q Did you ever have any concerns about the budget
13 you were given by corporate for the raw food for the
14 residents?

15 A No.

16 Q Before coming to Emeritus, had you ever had any
17 experience in doing budget variance detail reports or
18 anything like that?

19 MR. CORDOVA: Asked and answered.

20 A I just -- I don't remember. I know as a
21 department head previously, I had to explain variances.
22 But I don't remember the format or how that was
23 reported.

24 Q (BY MS. CLEMENT): When you worked for
25 Sunrise --

1 A Um-hum.

2 Q -- as a -- were you like an assistant executive
3 director for a short time?

4 MR. CORDOVA: Objection. Asked and answered.

5 A For a short time, I was an associate executive
6 director.

7 Q (BY MS. CLEMENT): And that was before you had
8 your license, correct?

9 A Correct.

10 Q And when you were the associate executive
11 director at Sunrise for a short time, were you
12 responsible for staffing the building?

13 A I don't remember that it was my sole
14 responsibility. I staffed the department that I was
15 still overseeing, and the department heads staffed
16 theirs.

17 Q And was the department you were overseeing was
18 the assisted living side?

19 A Correct.

20 Q And that facility had a memory care
21 neighborhood?

22 A Correct.

23 Q And someone else was responsible for staffing
24 that?

25 A Yes.

1 Q And at Sunrise, did you have a staffing formula
2 that you were to use for minimum staffing a building?

3 A I don't remember the process for it.

4 Q At Emeritus, were you told that they did not use
5 staffing formulas?

6 A I don't remember being told about a staffing
7 formula.

8 Q What was your understanding as to what Emeritus'
9 expectation was for you, as the executive director, with
10 regard to how to staff the building to meet the needs of
11 each of your residents?

12 A So there would be a budget and that would allot
13 for a certain number of staff per day. And then we
14 would look at busier times of day, like morning time
15 when personal care is taking place, and then spread them
16 out, spread out the staff appropriately.

17 Q Did you ever ask your regional director or
18 divisional director or anyone else for more money in
19 your budget for caregiving staff?

20 MR. CORDOVA: Objection. Asked and answered.

21 A I may have, but I don't remember.

22 Q (BY MS. CLEMENT): Were you ever advised during
23 the course of your employment at Emeritus by the
24 Department of Social Services that any time a resident
25 requires more care than they do at the time of

1 admission, you are required to complete a new appraisal
2 or reappraisal?

3 A Can you repeat the top of the question please?

4 Q Sure. Were you ever advised by the Department
5 of Social Services that whenever a resident required
6 more care than they did at the -- their admission, you
7 were required to complete a new appraisal of that
8 resident or a reappraisal?

9 A I don't remember a specific instruction from
10 Department of Social Services.

11 Q Do you recall being instructed by the Department
12 of Social Services that whenever a resident required
13 more care, they needed to have an update of their care
14 plan?

15 A Can I clarify? Are you talking about during my
16 time there, did Department of Social Services correspond
17 with me and say this to me?

18 Q Yes.

19 A No, I don't remember that.

20 Q Do you recall the Department of Social Services
21 telling you that whenever a resident needed more care
22 than Emerald Hills could provide, then you needed to
23 relocate the resident to a more appropriate level of
24 care?

25 A I don't remember a specific conversation with

1 them about it, unless -- you are looking at something.

2 So I'm not sure.

3 Q Okay. I am just asking from your memory if you
4 remember any of these things.

5 A I don't remember a conversation with them about
6 that.

7 Q Did you know when you were administrator that
8 whenever a resident required more care than they did at
9 the time of admission, a reappraisal was required to be
10 done of that resident?

11 A That would make sense to me, yes.

12 Q And did you know that needed to be in the
13 resident's record?

14 A That would make sense to me too.

15 Q And did you know that whenever a resident
16 required more care, that you needed to have the care
17 plan updated and made part of the resident's permanent
18 record?

19 A That would make sense, as well.

20 Q And did you understand that whenever Emerald
21 Hills could not provide the care the resident needed,
22 you needed to relocate that resident to a higher level
23 of care?

24 A Yes.

25 Q And was it your understanding that it was always

1 the facility's responsibility to relocate the resident,
2 not the family's?

3 A My understanding is that it would be in
4 cooperation and collaboration with them, because the
5 facility would not be able to make a decision for a
6 resident or a family on a location to be. But the need
7 to move could be decided by the facility.

8 Q Was it your understanding as part of your
9 training to become an administrator that the Title 22
10 regulations applied to the facility?

11 A Yes.

12 MR. CORDOVA: Asked and answered.

13 Q And was it your understanding as the -- in your
14 training to become an RCFE administrator that Title 22
15 regulations did not actually apply to families or
16 residents?

17 A Correct.

18 Q So when the regulations stated that a facility
19 must transfer a resident to a higher level of care when
20 their care needs exceeded what the facility could
21 manage, that obligation was the facility's alone,
22 correct?

23 MR. CORDOVA: Calls for a legal conclusion.

24 MS. WELLS: Lacks foundation.

25 A It says that. I don't see how a facility could

1 make a decision for a family on where their loved one
2 would go.

3 Q (BY MS. CLEMENT): Was it your understanding
4 that whenever the resident's care needs exceeded what
5 Emerald Hills could provide, the facility needed to send
6 something in writing to the family to let them know that
7 we can no longer, you know, meet your family member's
8 needs and we need to move them to a higher level of
9 care?

10 MS. WELLS: Lacks foundation.

11 A Yes. Notify. I'm not sure if it had to be in
12 writing. Actually, if it was a notice, yes, it would
13 need to be in writing. We just hope that conversation
14 would take place verbally.

15 Q (BY MS. CLEMENT): Did you ever -- strike that.
16 Do you recall having to -- strike that.

17 Do you recall writing to residents or their
18 family members and letting them know they needed to move
19 to a higher level of care during the course of your
20 administration?

21 A I don't remember doing that, no.

22 Q Was it your understanding that in addition to
23 writing to the family or the resident to let them know
24 they needed to move to a higher level of care, that you
25 also had to notify the Department of Social Services?

1 A Yes.

2 Q I'm going to show you now a 341 report of
3 suspected abuse of a resident that looks like you signed
4 and submitted to the state on May 22nd, 2008. Take a
5 moment to read that.

6 A Okay.

7 MS. WELLS: Can I see it please.

8 Q (BY MS. CLEMENT): Do you recall this incident
9 where caregivers at Emeritus were, I believe, taunting a
10 cognitively-impaired resident?

11 A I have a vague recollection of this report and
12 the incident, yes.

13 Q What do you remember about what happened at
14 Emerald Hills that led you to submitting this report to
15 Department of Social Services on May 22nd, 2008?

16 A Another employee who witnessed it -- and now I
17 am simply reading this -- reported it to me. I mean, it
18 certainly rings a bell. I don't remember the details.
19 I can't remember the individuals involved. But I have a
20 recollection of what was reported. I don't remember the
21 resident. I just remember the incident happening.

22 Q Okay. Tell me the best of your recollection of
23 what you remember about this incident of May 22nd, 2008
24 that you reported to the state.

25 MR. CORDOVA: Calls for narrative. Misstates

1 testimony.

2 A I mean, I just really can't remember the
3 details. I remember, though, getting the family
4 involved, because I certainly wanted them aware. I
5 remember that there was HR action with the employees
6 involved.

7 Q (BY MS. CLEMENT): Can you describe for me what
8 you recall after reading this mandated report of
9 suspected abuse that you submitted to the state as to
10 what happened with the resident and the caregivers?

11 A I don't remember more than what is said here
12 other than another employee reporting that another
13 employee was laughing at a resident and the resident was
14 upset. And I don't remember really the details of it.
15 This -- I mean, this just brings up -- it rings a bell.
16 I do remember, but I don't remember the details of the
17 incident. Clearly reported it and I haven't noticed on
18 here where I spoke with the family, but I do remember an
19 incident and speaking to the family about it and letting
20 them know what steps we were taking with the employees.

21 Q And did you conduct any type of in-service in
22 response to this suspected abuse of a resident where a
23 caregiver was taunting the resident?

24 A I don't remember.

25 Q Did you tell the state what you were planning to

1 do in response to the suspected abuse?

2 A I don't see anything like that on here. I don't
3 know if there is a place on here to put it.

4 Q Okay. What prevented you, as the administrator,
5 from increasing occupancy at Emerald Hills?

6 MS. WELLS: Assumes facts. Lacks foundation.

7 A I don't know if I could say specifically. I
8 know that Auburn could be an isolated and difficult
9 market.

10 Q (BY MS. CLEMENT): And why do you say that
11 Auburn could be an isolated and difficult market?

12 A Just from now being in the industry and here,
13 that it's considered up the hill and it's a little bit
14 more isolated from the rest of the greater Roseville
15 down to Sacramento area. But otherwise, I don't know
16 what our challenges were with getting it filled.

17 Q What did you do personally to try to increase
18 occupancy in the building during your tenure as
19 administrator?

20 A I would visit nearby facilities, such as the
21 skilled nursing facility and the hospital to develop
22 relationships with them so they knew who we were and
23 what we did, other community contacts, as well. And
24 there would be the occasional regional marketing effort
25 where -- and we would do this at other facilities, as

1 well, where a group of people from the different
2 facilities would go into the community and, for lack of
3 a better phrase, make calls, make personal calls to
4 community contacts and let them know who we were and
5 what we did.

6 Q So do you mean that employees of other Emeritus
7 facilities would come to your facility and you guys
8 would set up like a phone bank and do cold calls to
9 potential sources for new residents?

10 MR. CORDOVA: Misstates prior testimony.

11 A More in-person calls, to go out and to see
12 community contacts, so skilled nursing facilities,
13 directors of nursing, hospital discharge planners. And
14 so that would be done in the area for the building.

15 Q (BY MS. CLEMENT): I get it. I misunderstood
16 when you said calls. I was thinking of telephone calls.

17 A In-person calls. I mean face-to-face calls.

18 Q So you and other Emeritus employees from
19 different facilities would go in person and meet with
20 hospital discharge planners, skilled nursing facility
21 employees, to let them know about your facilities?

22 A Yes.

23 Q And do you remember how many times you did that
24 where you would go out into the community with other
25 Emeritus employees from different facilities and

1 introduce yourself and your services?

2 A With other facilities, at least twice. Once in
3 my area and once that I can remember in the Roseville
4 area.

5 Q Did you feel pressure from corporate to fill the
6 memory care unit?

7 A The entire building. I wouldn't specifically
8 isolate one department but the whole building.

9 Q Was the memory care unit something that had a
10 higher profit point for Emeritus, to your understanding,
11 than the assisted living side?

12 MR. CORDOVA: Calls for speculation.

13 MS. WELLS: Join.

14 A I don't know about profit point, but I do know
15 that charges could exceed what a basic charge in
16 assisted living would be.

17 Q (BY MS. CLEMENT): Is it true that the memory
18 care unit residents paid more for their care than the
19 residents on the assisted living side?

20 MS. WELLS: Lacks foundation, calls for
21 speculation.

22 A I don't remember. It sounds reasonable. I
23 would have to see the exact fee schedule, but that
24 sounds right. I just can't say for certain. And it
25 would depend on different care levels for assisted

1 living residents and whether that exceeded.

2 Q (BY MS. CLEMENT): So there were level -- there
3 was a flat rate for everyone coming into the facility on
4 the assisted living side?

5 A Yeah, that would be considered the rent of the
6 room.

7 Q And then on top of that flat rate, there was
8 level of care points that were added up, and that would
9 then increase their monthly fee to stay in the facility?

10 A Correct.

11 Q And was that same thing true in the memory care
12 unit, there was a flat rate and then their level of care
13 needs would be assessed, and that would be added to the
14 monthly fee?

15 A It changed during my time there. So I don't
16 remember what it was prior and what it ended up being.
17 But I do recall flat rate. What I don't remember is if
18 there were -- if that flat rate changed to include care
19 level and that there are just two rates. I'm sorry. I
20 just don't remember. But I know it changed from the
21 beginning to the end. And what I don't recall is if it
22 was points added up in addition to rent.

23 Q Okay. Did you personally get training on the
24 Vigilant program?

25 MR. CORDOVA: Objection. Asked and answered.

1 A I may have. But I don't remember.

2 Q (BY MS. CLEMENT): Would you say, in general,
3 that the more the resident was paying per month, that
4 was an indicator of their level of care?

5 A Yes, depending on where they were in the
6 community, because a larger room might speak to a larger
7 rent.

8 Q Was there ever any time during your employment
9 when the Vigilant program was being used to create care
10 plans or service plans for the residents?

11 A I believe so. I think that an assessment could
12 be typed into it, and it would print out a
13 representative care plan.

14 Q And was it your -- do you have any recollection
15 whether that was actually being done during your tenure
16 that Vigilant program was used to create care plans?

17 A It was.

18 Q And was it your understanding that when the care
19 plan was developed, that it was supposed to be gone over
20 with the resident and their family and the family was to
21 sign it or the resident?

22 A Yes.

23 Q Did you ever learn from any source that one of
24 the barriers for Emerald Hills increasing occupancy was
25 that it had developed a poor reputation in the

1 community?

2 MS. WELLS: Lacks foundation. Calls for
3 speculation. It's overly broad.

4 A Not that I was aware of, no.

5 Q (BY MS. CLEMENT): Did you feel that one of your
6 barriers for increasing occupancy was that you, at
7 times, did not have a full-time nurse?

8 A It may have. But that's not what I would have
9 thought. But as you say it, it certainly could have.

10 Q Was it within Mary Kasuba's span of control to
11 increase the budget for staffing in the facility?

12 A No.

13 Q Was it ever within your span of control to
14 increase the budget for staffing in the community?

15 MR. CORDOVA: Objection. Asked and answered.

16 A No.

17 Q (BY MS. CLEMENT): Did you ever request Emeritus
18 corporate that they seek an exception or waiver to the
19 Department of Social Services to allow you to have
20 bedridden residents at Emerald Hills?

21 A I don't remember doing that, no.

22 Q Did you ever request a bedridden waiver or
23 exception while you were the administrator at Emerald
24 Hills?

25 A I don't remember.

1 Q Did you feel pressure by Emeritus corporate to
2 accept residents who met the definition of bedridden?

3 MS. WELLS: Lacks foundation. Overly broad.
4 Vague and ambiguous.

5 A Specifically bedridden, I can't remember that,
6 no.

7 Q (BY MS. CLEMENT): Did you ever feel pressure by
8 corporate to retain residents who met the definition of
9 bedridden?

10 MS. WELLS: Same objections.

11 A I don't remember any specific incident of that.

12 Q (BY MS. CLEMENT): And just so we are clear, is
13 it your understanding that bedridden, while you were
14 administrator, meant a resident who needed the
15 assistance of one or more people to get in and out of
16 bed?

17 A No. What my understanding was is somebody who
18 could not reposition themselves while in bed and was not
19 expected to get out of bed.

20 Q So while you were administrator, you never knew
21 that a bedridden resident was one who needed the
22 assistance of one on more persons to get in and out of
23 bed?

24 MR. CORDOVA: Objection, misstates prior
25 testimony.

1 A I don't remember that definition.

2 Q (BY MS. CLEMENT): Did you have residents at
3 Emeritus who needed the help of one or more persons to
4 get out of bed?

5 A Yes.

6 Q Did you have residents at Emeritus who needed
7 the help of one or more persons to get out of bed in the
8 memory care unit?

9 A Yes.

10 Q Did you have residents who needed the help of
11 one or more persons to get out of bed in the assisted
12 living side of the facility?

13 A Yes.

14 Q And did you have residents who needed the
15 assistance of someone to get in and out of bed at
16 Emerald Hills that were not on hospice?

17 A Say that again.

18 Q Yeah, did your residents -- you had some
19 residents over the course of your tenure who were on
20 hospice, correct?

21 A Correct.

22 Q The residents who needed help getting in and out
23 of bed, were those residents who were all on hospice or
24 were those residents who --

25 A Some yes, some no.

1 MR. CORDOVA: Let her finish asking her
2 question.

3 A Sorry.

4 Q (BY MS. CLEMENT): So you had residents in both
5 the assisted living side and the memory care unit side
6 that needed help in getting in and out of bed who
7 weren't on hospice, correct?

8 A Correct.

9 Q If you had a resident who had been able to
10 ambulate using a walker but as a result of a change in
11 their condition could no longer bear weight due to pain,
12 is that something that you would report to your regional
13 operations person or to corporate on your resident event
14 report?

15 MR. CORDOVA: Compound and calls for a
16 hypothetical.

17 MS. WELLS: Join.

18 A Yes.

19 Q (BY MS. CLEMENT): Is that also -- if you had a
20 resident who could no longer bear weight, is that
21 something that you would report to the Department of
22 Social Services?

23 MS. WELLS: Lacks foundation. Overly broad.
24 It's an incomplete hypothetical.

25 A I think I would. I'm just not sure. It may

1 depend if it was prompted by a hospitalization or an
2 event or fall.

3 Q (BY MS. CLEMENT): If you had a resident who
4 could no longer bear weight and the physician ordered
5 that resident to come to the hospital for x-rays, is
6 that something you would report to the Department of
7 Social Services?

8 A Yes.

9 Q And if you had a resident whose physician had
10 ordered them to come to the hospital for x-rays because
11 they were no longer able to bear weight due to pain, is
12 that something that you would expect your staff to carry
13 out?

14 A Yes.

15 Q And if your staff failed to carry that out, is
16 that something that you would report to the Department
17 of Social Services?

18 A Yes.

19 Q And would you expect the facility to notify the
20 family if the physician had made an order that the
21 resident be brought to the hospital for x-rays due to
22 inability to bear weight because of increasing pain?

23 A Yes.

24 Q And is that something that you would have
25 expected your facility nurse to do a reappraisal of the

1 resident?

2 A Yes.

3 Q Would you expect your nurse to develop a care
4 plan as a result of the resident no longer being able to
5 bear weight because of increasing pain?

6 A Yes.

7 Q And would you expect the care plan and
8 reappraisal to address the resident's pain level?

9 A Yes.

10 Q Do you have any explanation as to why when
11 Mrs. Boice's doctor ordered her to come to the hospital
12 to get x-rays of her foot and ankle when it was reported
13 to her on October 14, 2007 by Nanette Read, that she
14 could no longer bear weight due to increasing pain in
15 her foot, why the facility did not follow that order?

16 MR. CORDOVA: Assumes facts. Calls for
17 speculation.

18 MS. WELLS: Lacks foundation.

19 A I don't know. I wasn't aware of that.

20 Q (BY MS. CLEMENT): Do you have any explanation
21 as to why Mrs. Boice's family was not notified of this
22 order?

23 MR. CORDOVA: Same objections.

24 A No.

25 Q (BY MS. CLEMENT): Do you have any explanation

1 as to why there was no reappraisal or care plan for
2 Mrs. Boice upon the notice of the facility that
3 Mrs. Boice was no longer able to bear weight?

4 MR. CORDOVA: Same objections.

5 A No.

6 Q (BY MS. CLEMENT): Do you have any understanding
7 as to why there was no report to the Department of
8 Social Services about this change in Mrs. Boice's
9 condition?

10 MR. CORDOVA: Same objections.

11 A No.

12 Q (BY MS. CLEMENT): Did you have anyone working
13 for you on your staff at Emeritus who -- back when
14 Mrs. Boice was a resident in the last quarter of 2008,
15 who was qualified to assess whether a resident had
16 suffered from a stroke?

17 A I would expect a nurse to be able to assess
18 that.

19 Q How about your caregivers? Did you think they
20 were qualified to assess whether a resident suffered a
21 stroke?

22 A No. Qualified to say if behavior was different
23 or features or facial or abilities had changed, yes.

24 Q How about Alicia Parga? Did you believe she was
25 qualified to assess whether a resident suffered from a

1 stroke?

2 A Same as what the unlicensed caregivers could
3 see, just changes in abilities, behaviors, speech,
4 facial appearance.

5 Q If your caregivers or Alicia Parga or the nurse
6 suspected a resident had a stroke, what would you expect
7 them to do?

8 A Notify the family and the doctor.

9 Q Would you expect them to send the resident out
10 on a 911 call?

11 A Yes, I would.

12 Q Was it your understanding that the most
13 important time for a patient who suffered a stroke is
14 within the first few hours post stroke?

15 MR. CORDOVA: Calls for a medical conclusion.

16 MS. WELLS: Join.

17 A I am aware of that, but the pending change of
18 condition would be enough to send them out.

19 Q (BY MS. CLEMENT): Just as a layperson, you had
20 an understanding while you were the administrator that
21 whenever there was a suspicion a resident suffered a
22 stroke, that they needed to be immediately sent out for
23 possible treatment to the hospital, correct?

24 MS. WELLS: Lacks foundation.

25 MR. CORDOVA: Join.

1 A I wouldn't put it in the context of if a
2 resident was having a stroke, because I wouldn't expect
3 an unlicensed staff to see that. But if somebody was
4 reporting what sounded to me like that, I would expect
5 them to send them out. But would I expect them to send
6 them out if there was any kind of change of behavior,
7 ability, facial expression.

8 Q (BY MS. CLEMENT): Did you ever report to the
9 Department of Social Services any of the residents at
10 Emeritus who had developed pressure ulcers?

11 A I don't remember ever reporting. I would expect
12 so.

13 Q Would you have expected your nurse to develop
14 a -- strike that.

15 Would you have expected your nurse to assess
16 Mrs. Boice once she had developed pressure ulcers at the
17 facility and write up an assessment in the --
18 Mrs. Boice's permanent record?

19 A Can you say that again.

20 Q Yes. Would you have expected Peggy Stevenson to
21 evaluate Mrs. Boice once it was known that she developed
22 pressure ulcers and do a reassessment of her?

23 A Yes, I was only aware of one pressure ulcer, but
24 yes.

25 Q And would it be your expectation that when

1 Mrs. Boice developed a pressure ulcer, that someone
2 would report that to the Department of Social Services?

3 A Yes.

4 Q And would you expect that when Mrs. Boice
5 developed a pressure ulcer at the facility, that there
6 would be a care plan developed to address that?

7 A Yes.

8 Q And would you expect that the nurse's assessment
9 of Mrs. Boice with regard to her developing a pressure
10 ulcer would be part of Mrs. Boice's permanent record?

11 A Yes.

12 Q Do you have any explanation as to why there is
13 no record of an assessment by Peggy Stevenson in
14 Mrs. Boice's record?

15 MR. CORDOVA: Lacks foundation.

16 A No.

17 Q (BY MS. CLEMENT): Do you have an explanation as
18 to why there is no -- strike that.

19 Do you have an explanation as to why there is no
20 report of Mrs. Boice's pressure ulcers made to the
21 Department of Social Services?

22 MS. WELLS: Lacks foundation. Assumes facts.

23 MR. CORDOVA: Same objection.

24 A No.

25 Q (BY MS. CLEMENT): Did someone from corporate

1 tell you that you weren't to be reporting Mrs. Boice's
2 pressure ulcers?

3 MS. WELLS: Argumentative.

4 A I don't remember any conversation like that.

5 Q (BY MS. CLEMENT): Did you ask someone from
6 Emeritus corporate to come to the facility and assess
7 Mrs. Boice once you learned she had developed pressure
8 ulcers or pressure ulcer?

9 A I may have. I don't remember.

10 Q Do you remember speaking with anyone from
11 corporate about Mrs. Boice's pressure ulcer?

12 A I don't remember a specific conversation. But I
13 know that I spoke to regionals -- just escaping me --
14 the nurse and my boss to report that it had been
15 reported to me that she had an ulcer.

16 Q So would that have been you spoke to Doris
17 Marshall, the regional nurse, and Rhonda Castleberg, the
18 regional director of operations, to let them know that
19 you had learned that Mrs. Boice had a pressure ulcer?

20 MR. CORDOVA: Objection to the extent the
21 question has been asked and answered.

22 A Correct.

23 Q (BY MS. CLEMENT): Did you, yourself, ever look
24 at Mrs. Boice's pressure ulcer?

25 MR. CORDOVA: Asked and answered.

1 A No.

2 Q (BY MS. CLEMENT): And is there a reason why you
3 didn't look at her pressure ulcer?

4 A I expected my nurse to report to me within her
5 scope what she saw.

6 Q Did you know that your nurse had no training or
7 expertise in pressure ulcers?

8 A No.

9 Q Had you provided any training to your staff
10 during your tenure as administrator on the prevention of
11 pressure ulcers?

12 A I personally had not.

13 Q Do you know whether there had been any training
14 to the Emeritus staff at Emerald Hills on the prevention
15 of pressure ulcers?

16 A I believe so, yes.

17 Q And why do you believe that? Let me rephrase
18 the question.

19 Do you know whether there had been any training
20 on the prevention of pressure ulcers provided to Emerald
21 Hills caregiving staff before Mrs. Boice developed her
22 pressure ulcer at Emerald Hills?

23 A I can't say for certain, but I expected that it
24 had been, because it was part of discussion of the
25 process of doing personal care for the resident.

1 Q Do you have any explanation as to why all the
2 caregivers that have been deposed in this case have
3 testified that they did not have training in the
4 prevention of pressure ulcers before Mrs. Boice
5 developed her pressure ulcer?

6 MR. CORDOVA: Argumentative.

7 MS. WELLS: Calls for speculation, misstates
8 prior testimony and it's argumentative.

9 A No.

10 Q (BY MS. CLEMENT): So your understanding that
11 all caregiver training was to be in the in-service
12 binder and in the -- in the employees' personnel files?

13 A Yes.

14 Q Do you have any explanation why there is no
15 evidence of any pressure ulcer training for the
16 caregiving staff prior to Mrs. Boice developing her
17 pressure ulcers at Emerald Hills?

18 MR. CORDOVA: Argumentative.

19 MS. WELLS: Assumes facts. It calls for
20 speculation.

21 A No.

22 Q (BY MS. CLEMENT): Was it your understanding
23 that the caregivers were to have a minimum number of
24 hours of legally required training at Emeritus on an
25 annual basis?

1 A Yes.

2 MR. CORDOVA: Calls for legal conclusion.

3 Q (BY MS. CLEMENT): And was it also your
4 understanding that within the first four weeks of their
5 employment, the caregivers and med techs were supposed
6 to have the Join Their Journey training?

7 A I don't remember the specific guidelines, but I
8 do remember that they were to have the training.

9 Q And who, to your understanding, was supposed to
10 be providing the Join Their Journey training for your
11 caregiving staff at Emerald Hills?

12 A That could be more than one person. It could be
13 me. It could be a nurse. It could be the memory care
14 director.

15 Q Was it your understanding that the Join Their
16 Journey training was to be provided every month for new
17 employees or employees who hadn't yet had the training?

18 A I don't remember how it was scheduled.

19 Q Do you remember ever participating in any Join
20 Their Journey training prior to the last month that you
21 worked at Emeritus, December of 2008?

22 MR. CORDOVA: Asked and answered.

23 MS. WELLS: Asked and answered.

24 A I don't remember the specific training, but I
25 participated in several trainings. I just don't

1 remember the title of it.

2 Q (BY MS. CLEMENT): Okay. So you remember
3 participating in many trainings over the course of your
4 employment, but you don't remember what topics they were
5 on?

6 A I don't remember the specific classes, because I
7 believe there were specific classes to get, and I don't
8 remember -- I know one was Join Their Journey. There
9 was orientation. But I don't remember each of them.
10 And I participated in them, but I don't remember
11 specifically.

12 Q And when you participated in the training, you
13 would sign the in-service attendance record?

14 A If I was presenting something, yes.

15 Q And if you were attending it but not presenting,
16 you would also sign the in-service attendance record?

17 MR. CORDOVA: Misstates prior testimony.

18 A If I was attending something where I was being
19 given the training, yes.

20 Q (BY MS. CLEMENT): Now, in your deposition, you
21 testified that your last day of employment was
22 December 30th, 2008. Do you recall that?

23 A Yes.

24 Q Emerald Hills in their sworn discovery responses
25 stated that your last day of employment was January 7th,

1 2009. Which of the two dates is correct?

2 A The 30th.

3 Q Did you give two-weeks' notice or more notice
4 than that to Emeritus about your decision to leave the
5 company?

6 A Two weeks. And I can explain why the 7th was
7 probably their documented last day for me.

8 Q Okay.

9 A My direct supervisor had not submitted to HR the
10 check request. And under the labor laws -- and I don't
11 know all the details of -- they had to continue my pay
12 through a certain number of days, because they couldn't
13 produce my check on my last day. And then they couldn't
14 produce my check a period of days after. And so the
15 technical, I think, last day had to be the day that they
16 produced the check. And I don't -- labor -- I don't
17 know labor law but something like that.

18 MR. CORDOVA: Testify only to what you know.

19 A Sorry. But I know that was why there was the
20 discrepancy of the date.

21 Q (BY MS. CLEMENT): Okay. But the last day you
22 were physically in the building was December 30, 2008?

23 A Correct.

24 Q Do you know who -- strike that.

25 Did you interview anyone to replace you as the

1 executive director?

2 A No.

3 Q Did they -- did Emeritus tell you who they were
4 going to put in your place as the executive director?

5 MR. CORDOVA: Objection. Vague and ambiguous.

6 A No.

7 Q (BY MS. CLEMENT): Did you provide any training
8 to anyone who was going to come onboard as executive
9 director to replace you?

10 A No.

11 Q Was it your understanding that Emeritus went for
12 a period of time with no executive director after you
13 left Emerald Hills?

14 MS. WELLS: Calls for speculation, lacks
15 foundation.

16 MR. CORDOVA: Join.

17 A That was my understanding.

18 Q (BY MS. CLEMENT): Was it your understanding
19 that the person that replaced you, Rich Lee, was a boat
20 salesman who didn't have any experience as a RCFE
21 administrator?

22 MS. WELLS: Calls for speculation, assumes
23 facts, lacks foundation.

24 MR. CORDOVA: Join.

25 A I had heard about that much about him after I

1 left.

2 Q (BY MS. CLEMENT): Did Rhonda Castleberg ever
3 tell you that the reason she was going to hire Rich Lee
4 is because he had a background in sales and she thought
5 that would help the occupancy levels at Emerald Hills?

6 A No.

7 Q Once Peggy Stevenson became your facility nurse,
8 would you discuss each of the unusual incident reports
9 with her before you submitted them to licensing?

10 A I can't say for sure on each and every one, but
11 typically yes.

12 Q Did you feel pressure to meet the staffing
13 budget for caregiving -- strike that. Let me lay a
14 foundation.

15 My understanding from you and others is that the
16 budget for staffing was for all the staff in the
17 building; is that right?

18 A Correct.

19 Q Did you feel pressure from corporate to meet the
20 staffing budget?

21 A All the budget, yes.

22 Q Did Alicia Parga ever voice concerns to you
23 about a staffing level in the memory care unit?

24 A She may have. I don't remember specific
25 conversations about it.

1 Q Did Danielle Stevenson ever voice concerns to
2 you about staffing levels in the facility?

3 A Again, she may have, but I don't remember our
4 specific conversations.

5 Q Did Bertha Bell tell you she was concerned about
6 the staffing levels in the facility?

7 A Same answer. I can't remember. But she may
8 have.

9 Q Is there anyone at the facility who you have a
10 recollection of them telling you that they had concerns
11 about the staffing levels at Emerald Hills?

12 MR. CORDOVA: Objection. Asked and answered.

13 A I just -- I can't remember any specific
14 conversations with everyone.

15 Q (BY MS. CLEMENT): Do you remember, in general,
16 that that was a common theme throughout your
17 administration, that staff were concerned with about the
18 care -- the number of caregiving staff available on the
19 floor?

20 MS. WELLS: Lacks foundation. It's overly broad
21 in time and scope.

22 A I remember that that was an issue in the
23 beginning of my time there. I don't remember those
24 issues being raised throughout. I just don't remember
25 the specifics.

1 Q (BY MS. CLEMENT): Do you remember during the
2 last quarter that you were there, the last quarter of
3 2008, that staffing was continued to be a concern for
4 the resident caregivers and med techs?

5 MS. WELLS: It's vague and ambiguous, lacks
6 foundation.

7 MR. CORDOVA: Join.

8 A I don't remember that.

9 Q (BY MS. CLEMENT): Do you remember staff voicing
10 concern to you that they were being put on the schedule
11 for both the assisted living and memory care side when
12 they could only physically be on one side or the other
13 of the building?

14 A I don't remember that.

15 Q Did you know that that was a practice at Emerald
16 Hills during your tenure, that staff, for example, med
17 techs were listed as being -- working in both the memory
18 care unit and assisted living side of the building when
19 they could only be at one place at one time?

20 MS. WELLS: Assumes facts. Lacks foundation.

21 MR. CORDOVA: Join.

22 A From what I can remember, a med tech might span
23 both neighborhoods, because the sole purpose would be to
24 pass out meds. But I can't remember specifically who we
25 are talking about or the schedule.

1 Q (BY MS. CLEMENT): Do you remember med techs
2 expressing concern to you that they didn't feel that it
3 was possible for them to accurately administer resident
4 medications when they would have more than 50 residents
5 to pass medications for on a single shift?

6 MS. WELLS: Assumes facts. Lacks foundation.

7 MR. CORDOVA: Join.

8 A I don't remember that, no.

9 Q (BY MS. CLEMENT): Do you remember reading that
10 in Mary Kasuba's letter?

11 A I do.

12 Q Does that refresh your recollection that staff
13 were concerned, not just Mary Kasuba, but the med techs
14 were concerned about potential for medication errors
15 when only one staff member was assigned to pass
16 medications for more than 50 residents?

17 MR. CORDOVA: Argumentative.

18 MS. WELLS: Assumes facts, lacks foundation and
19 calls for speculation.

20 A I just can't remember a specific staff or a
21 specific conversation. I read Mary's letter, so that's
22 certainly fresh in my mind.

23 Q (BY MS. CLEMENT): Did you ever tell anyone at
24 the regional divisional level that you were concerned
25 that you didn't have enough med techs in the building to

1 pass medications or administer medications safely to the
2 residents?

3 A I don't remember my specific conversations with
4 regional, but I spoke with them, as you can see, often.
5 I just don't remember the specific conversation.

6 Q Do you remember an incident at Emerald Hills
7 where you had a couple who were not married but two
8 residents who were a couple at the facility who were
9 jaywalking across Highway 49?

10 A Vaguely, yes. If it's who I am thinking of,
11 yes.

12 Q And do you remember that those residents had
13 memory impairment?

14 A Yes.

15 Q And do you remember those residents were
16 cognitively impaired?

17 A Yes.

18 Q And did you report that incident to the
19 Department of Social Services where the residents were
20 walking across Highway 49?

21 A I believe I did, yes.

22 Q Okay. Do you have an explanation as to why
23 there is no record of an unusual incident report or
24 resident event tracking report regarding the residents
25 who were walking across Highway 49?

1 MS. WELLS: It's compound. It's argumentative.

2 MR. CORDOVA: Join.

3 Q (BY MS. CLEMENT): Okay. I will rephrase it.

4 Do you have an explanation as to why there is no
5 unusual occurrence report for the residents who were
6 walking across Highway 49 by themselves?

7 A No.

8 Q I need to reask that a different way. I'm
9 sorry.

10 Do you have any explanation as to why there is
11 no unusual incident report submitted to the Department
12 of Social Services for the cognitively-impaired
13 residents who were walking across Highway 49?

14 A No.

15 Q Do you have any explanation as to why there was
16 no resident event report for the residents who were
17 cognitively -- strike that. Sorry.

18 Do you have any explanation as to why there was
19 no resident event report for the cognitively impaired
20 residents who were walking across Highway 49?

21 A No, but I would have expected one to be done.

22 Q Do you remember reporting to Lisa Hulse the
23 residents who tried to cross Highway 49 on their --
24 during the course of your tenure at Emerald Hills?

25 A I don't remember specifically Lisa, but I

1 remember speaking to somebody at corporate about this
2 couple.

3 Q Do you want to take our lunch break now?

4 THE VIDEOGRAPHER: This ends tape number two of
5 volume number two of the deposition of Nancy Cordova.
6 Going off the record at 12:32 p.m.

7 (Lunch recess was taken.)

8 THE VIDEOGRAPHER: We are on the record at
9 1:44 p.m. The date is August 13, 2012. This begins
10 tape number three, volume number two, of the deposition
11 of Nancy Cordova.

12 Q (BY MS. CLEMENT): Okay. When we broke for
13 lunch, we were talking about staffing concerns. And I
14 want to shift focus now and talk a little bit about your
15 training and education and some documents that were
16 produced I think may have belonged to you.

17 A Okay.

18 Q So have you had a chance off the record to just
19 briefly look at Exhibits 37, the manual of policies and
20 procedures for RCFEs and Exhibit 40, the RCFE 40-hour
21 initial certification program?

22 A Yes.

23 Q Do those look like photocopies of the RCFE
24 manual of policies and procedures that you had while you
25 were administrator at Emeritus and the initial

1 certification program that you went through?

2 A Yes.

3 Q And did you see your handwriting on those?

4 A Yes.

5 Q And when you left Emeritus, did you leave copies
6 of those at the facility?

7 A I don't remember, but I don't remember taking
8 them, so may have.

9 Q Okay. And I apologize if I asked you this
10 before, but do you remember when you got your RCFE
11 license?

12 MR. CORDOVA: Asked and answered.

13 A I believe we did discuss it before, but I'm
14 trying to remember. It was -- it was when I was
15 employed with Vitas. But I do not believe I was here in
16 Sacramento at the time.

17 Q (BY MS. CLEMENT): Okay. Do you have any plans
18 of returning to the residential care facility for the
19 elderly or assisted living facility industry as a job
20 for yourself in the future?

21 MR. CORDOVA: Asked and answered.

22 A At this time, no.

23 Q (BY MS. CLEMENT): When you did your training
24 to become an RCFE administrator, did you learn there
25 were certain requirements for becoming an administrator,

1 depending on the size of the building?

2 A Yes.

3 Q And was it your understanding that for all RCFE
4 administrators, they had to have completed their
5 certification training and have passed the examination?

6 A Yes.

7 Q Okay. And did you also understand that for
8 facilities that had 50 beds or larger, there needs to
9 be --

10 A Sorry.

11 Q That's okay.

12 A I'm sorry.

13 Q Don't be sorry. Did you have an understanding
14 that for assisted living facilities that were 50 beds or
15 larger, that you needed to have both two years of
16 college experience and three years of experience in
17 long-term care?

18 A That sounds right. I don't remember the
19 specific requirements now.

20 Q Now, when you came to Emeritus, did you have two
21 years of experience in long-term care at Sunrise?

22 A I don't believe I was at Sunrise for two years.
23 I believe it was just under two years.

24 Q Did you have any other experience in long-term
25 care in residential area facilities for the elderly?

1 A In the RCFE, no.

2 Q Did anyone at Emeritus express concern to you
3 when you were hiring for the position of the
4 administrator that you had less than the three years'
5 experience required for a facility of that size?

6 A No.

7 Q Okay. And did you keep copies of Exhibit 37 in
8 and Exhibit 40 in your office at Emerald Hills to use as
9 reference?

10 A Yes.

11 Q And did you also use as reference materials that
12 Emeritus provided, like policies and procedures and
13 their own manuals?

14 A Yes.

15 Q Did you ever get any training from Emeritus on
16 the type of residents that you could admit to their
17 facility at Emerald Hills?

18 A Not that I remember, no.

19 Q While you were at Sunrise, were you responsible
20 for admitting new residents?

21 A There was some responsibility, but it wasn't my
22 sole responsibility.

23 Q Were you someone who assisted in admitting
24 residents, but it was the administrator who was
25 responsible for admitting them?

1 A Yes.

2 Q Did Rhonda Castleberg ever share with you that
3 she felt pressure to meet the goals that Emeritus set
4 for her for the 11 facilities she was responsible for?

5 MS. WELLS: Vague and ambiguous, lacks
6 foundation.

7 A Could you repeat the question.

8 Q (BY MS. CLEMENT): Yes. Did Rhonda Castleberg
9 ever share with you that she felt pressure from
10 corporate to meet goals that they set for her?

11 A No.

12 Q Did anyone other than Rhonda Castleberg discuss
13 the budgetary goals that you were required to meet?

14 MR. CORDOVA: Assumes facts.

15 A Yes, it would have been her predecessors,
16 possibly our marketing people, as well, and then anybody
17 above the regional level, as well as a business analyst
18 who was assisting in that process, as well.

19 Q (BY MS. CLEMENT): And was the business analyst
20 from corporate in Seattle?

21 A Yes.

22 Q Do you remember that person's name?

23 A I remember it from reviewing the deposition last
24 time. I believe it was Rebecca, but I don't remember
25 her last name.

1 Q Did anyone -- strike that.

2 Did Budgie Amapro ever call you in response to
3 the Mary Kasuba letter of October 12 to ask you about
4 the staffing in the building and the concerns that
5 Ms. Kasuba raised?

6 A No.

7 Q Did anyone from corporate in Seattle call you
8 and ask you questions about Mary Kasuba's letter?

9 A I don't think anyone called me. It was
10 something that -- because it prompted the resignation
11 and the letter that there was much discussion with
12 regional and HR. But I don't remember somebody
13 contacting me regarding the content of the letter.

14 Q Okay. Now, did you get a call from Lisa Hulse
15 in response to Mary Kasuba's letter of October 12, 2007?

16 A I may have. But I don't remember every
17 conversation with her. She and I spoke quite a bit.

18 Q What would you typically speak -- what topic
19 areas would you talk to Lisa Hulse about, typically?

20 A Resident care questions, any issues that I felt
21 were coming up, procedural questions. She was very
22 reachable.

23 Q Do you remember Lisa Hulse calling you up and
24 having a dialogue with you about barriers that you
25 perceived to hiring staff at your facility, caregiving

1 staff?

2 A I don't remember specifically, but we may have.

3 Q Do you remember discussing with Lisa Hulse a
4 concern that you raised that the geography of -- strike
5 that.

6 Do you remember raising with Lisa Hulse that you
7 had a concern that the location of Emerald Hills made it
8 hard for you to recruit staff?

9 A I don't remember a conversation, but that sounds
10 reasonable.

11 Q Was that a concern that you had, that the
12 location of Emerald Hills made it difficult for you to
13 recruit staff?

14 A Yes.

15 Q And what was your concern in that regard?

16 A Demographically, it's -- I think I have even
17 said this earlier today -- it's far from Roseville.
18 It's fairly isolated. Demographically, you have a
19 smaller pool to pull from as far as care staff, dining
20 staff, nurses, anybody who would be within a reasonable
21 commute.

22 Q Did Lisa Hulse ever give you any ideas or -- for
23 incentives to help you to hire more staff at your
24 facility?

25 A I don't remember that.

1 Q Were the employees, the caregiver employees
2 offered benefits, like health benefits?

3 A I believe so, yes.

4 Q Was that something that they had to pay for, in
5 part?

6 A I don't remember the structure of it. There may
7 have been a partial responsibility on their part, but I
8 don't remember the amount.

9 Q Did you feel pressure from corporate to prevent
10 your employees from having overtime?

11 A Yes.

12 Q And can you explain that?

13 A It was very frowned upon to have overtime. And
14 we would have to report it weekly as it happened and
15 explain why and what we were doing to prevent it.

16 Q Was it your understanding that the caregiving
17 staff, including the med techs, had to clock out for
18 their 30-minute lunch every day?

19 A Yes.

20 Q So in other words, Emeritus wasn't paying them
21 for their 30-minute lunch break?

22 A It's my understanding, yes.

23 Q Was it your understanding that the employees, in
24 addition to taking 30 minutes for lunch, they also were
25 required to take two breaks during the day, 15-minute

1 breaks?

2 A That sounds correct.

3 Q Was it your understanding that those 15-minute
4 breaks were, however, paid breaks?

5 A Yes.

6 Q Did you learn from your caregiving staff at
7 Emeritus that -- strike that.

8 Did you learn from your staff that employees did
9 not feel comfortable leaving the residents to take their
10 required breaks?

11 A I don't remember that.

12 Q Did you ever hear from any of your staff they
13 were afraid to take breaks, because the residents would
14 be left alone?

15 A I don't remember hearing that.

16 Q Was it your understanding that the memory care
17 unit was to always have at least two caregivers staffed
18 in that unit on each shift?

19 MR. CORDOVA: Objection. Asked and answered.

20 MS. WELLS: Vague and ambiguous. It lacks
21 foundation.

22 A I don't remember the staffing back then.

23 Q (BY MS. CLEMENT): Were you aware that your
24 caregivers, during your tenure, were oftentimes working
25 up to ten or 11 days straight without a day off?

1 MS. WELLS: Lacks foundation. Assumes facts.

2 A I know that had happened, but I don't recall the
3 frequency.

4 Q (BY MS. CLEMENT): Why would you have caregivers
5 working ten or 11 days straight without a day off?

6 A If there was a shift that needed to be covered,
7 and if they would volunteer for that, then they would
8 have the overtime to do so.

9 Q Was it your understanding that many of your
10 caregiving staff had second jobs at other facilities?

11 MS. WELLS: Calls for speculation, lacks
12 foundation.

13 A I don't know what you mean by many. I know that
14 at least one did. I don't remember each of them having
15 another job.

16 Q (BY MS. CLEMENT): Which caregiver do you
17 remember having another job?

18 A Just in context I remember that had come up, but
19 I don't remember who.

20 Q How did that come to your attention?

21 A I don't remember if it's how she came to know
22 about Emerald Hills, but I believe it was somebody who
23 was working across the street at the skilled nursing
24 facility.

25 Q Was that a practice that was frowned on at

1 Emerald Hills for employees to have more than one
2 full-time job?

3 MS. WELLS: Lacks foundation. Calls for
4 speculation. Vague and ambiguous.

5 A I don't recall it being frowned upon. If it
6 happened, it happened.

7 Q (BY MS. CLEMENT): Okay. Did it come to your
8 attention that many of your caregivers were not signing
9 out for their meal period, their mandatory 30-minute
10 lunch break?

11 A I don't remember that. It may have happened
12 from time to time, but I don't remember.

13 Q What did you do to ensure that the employees
14 took their mandatory breaks?

15 A I don't remember specifically what I did. It
16 was something that was required of everybody for -- to
17 ensure that they got the time to eat and have their
18 break. It was required and it needed to be reported if
19 they didn't feel they could do so, so that they could be
20 covered.

21 Q Did you get any training from Emeritus as to
22 what were potential red flags that the facility was not
23 meeting the residents' care needs?

24 (Simultaneously speaking, Reporter interrupted.)

25 MR. CORDOVA: Vague and ambiguous.

1 MS. WELLS: Join and it's overly broad.

2 A I don't remember that, no.

3 Q (BY MS. CLEMENT): Did you get any training at
4 all from Emeritus about signs or symptoms that your
5 facility was not meeting the needs of the residents?

6 MS. WELLS: Same objections.

7 A I don't remember that.

8 Q (BY MS. CLEMENT): Did you get any training from
9 Emeritus about how to detect if you had residents that
10 were too high acuity for your facility?

11 A I don't remember that either.

12 Q Was there anyone that you know of that was
13 supervising what -- your administration of Emerald Hills
14 to determine whether or not the facility was meeting the
15 needs of each of their residents?

16 MS. WELLS: It's vague and ambiguous. Lacks
17 foundation. It's overly broad.

18 A I'm sorry. I think I need to hear it again.

19 Q (BY MS. CLEMENT): Sure. Did you know whether
20 anyone from Emeritus was supervising your administration
21 at Emerald Hills to determine if you were meeting the
22 needs of each of your residents?

23 A I don't know if or how. I would expect they
24 were reviewing the event reports that were going to
25 them.

1 Q Did anyone from Emeritus ever give you any
2 training on what quality indicators you should be
3 looking for in your resident events or unusual
4 occurrence reports you would be submitting to the state
5 that would indicate that there were problems with
6 meeting residents' needs?

7 A Not that I remember.

8 Q Did anyone, for example, tell you that
9 Emeritus's quality indicators or metric for measuring
10 quality of care in the facility was to look at skin
11 breakdown, weight loss, fall occurrences, residents
12 becoming incontinent, regulatory compliance and employee
13 injuries?

14 A They may have, but I don't remember it.

15 Q Did you have a CQI committee at Emerald Hills?

16 MR. CORDOVA: Vague and ambiguous.

17 A I have heard those letters before, and I just
18 can't remember context for what that stands for.

19 Q (BY MS. CLEMENT): Okay. Would anyone from
20 Emeritus instruct you that you needed to have a quality
21 indicator committee or committee in quality indicators?

22 A I don't remember that.

23 Q Did anyone from Emeritus tell you you needed to
24 have any kind of a quality assurance committee?

25 A I don't remember that.

1 Q Did anybody from Emeritus indicate to you you
2 needed to have any kind of a risk management program at
3 Emerald Hills?

4 A I don't remember that. The closest to something
5 risk management is that I believe there was a safety
6 committee.

7 Q And was there a safety committee --

8 A Yes.

9 Q -- at Emeritus/Emerald Hills?

10 A Sorry, yes.

11 MR. CORDOVA: Wait for the question.

12 Q (BY MS. CLEMENT): Who was on that committee?

13 A I don't remember everybody, but it was made up
14 of management and staff. And I believe the maintenance
15 director was on it.

16 Q And that was Chris?

17 A Correct.

18 Q Okay. And were there -- strike that.

19 Were you the head of the safety company, or was
20 Chris the head of the safety committee?

21 A I think Chris was.

22 Q And did Emerald Hills maintain minutes of the
23 safety committee meetings?

24 A To the best of my recollection, yes.

25 Q And would you get copies of those and have to

1 review those as part of your job?

2 A Yes.

3 Q Was there anything that you did to ensure that
4 all the caregivers and med techs at Emerald Hills
5 received the required training pursuant to the
6 Department of Social Services guidelines?

7 A I don't remember the specific schedule and
8 everything I did. I do know that we had training all
9 the time. And that could be formal. That could be
10 informal. That could be if there were two people that
11 were present, we would fill out an in-service form to
12 discuss what we were showing and talking about.

13 So it seemed like we did them all the time.
14 Sometimes they were resident specific to talk about what
15 kind of care they might need. If PT came in, we might
16 gather everybody around to talk about how somebody
17 needed to be repositioned or assisted. So I was very
18 encouraging of consistently having training and
19 in-services and education for them, but it varied on
20 type.

21 Q Did you have any kind of system in place to
22 ensure that all of your caregivers and med techs
23 received the training required by the Department of
24 Social Services and their guidelines?

25 A I don't remember what the tracking system was.

1 I believe it was part of our employee files.

2 Q Was there someone to whom you delegated the
3 responsibility of ensuring that each employee receive
4 the required training pursuant to the DSS guidelines?

5 A I don't remember specifically the situation, but
6 anything that would be related to somebody's department,
7 I would expect their department head to follow that and
8 report to me any concerns or issues.

9 Q Okay. I'm just trying to determine if you
10 actually had some kind of a system in place, yourself,
11 to track whether your employees were getting the
12 required DSS training, or if you had delegated that to
13 someone else to track whether the employees were getting
14 the required DSS training.

15 MR. CORDOVA: Wait for a question. Was that a
16 question? I'm sorry.

17 Q (BY MS. CLEMENT): Yeah. Did you have a system
18 in place to ensure that all the employees received the
19 required Department of Social Services training?

20 A I just don't remember what my tracking system or
21 process was. I may have. I just don't remember what it
22 was, what it looked like.

23 Q Okay. So as you sit here today, you don't know
24 whether you had a system in place or not; is that right?

25 A I don't know that I would say I don't know. I

1 just don't remember.

2 Q Okay. So as you sit here today, you don't
3 recall if you had a tracking system in place to ensure
4 that all your employees got the required DSS training?

5 A Correct.

6 Q Was anyone from Emeritus corporate, either
7 regional or divisional, supervising you to make sure
8 that the required DSS training was taking place for all
9 your employees?

10 A Specifically to that, I don't recall somebody
11 checking just into that. But I had audits and visits to
12 check my systems and standards.

13 Q Did you get copies of the audits that took place
14 at Emeritus by corporate?

15 A I would have but it's not something that I
16 retained after leaving there.

17 Q Okay. Would you have left the audits and all
18 other paperwork related to your administration of
19 Emerald Hills in the files you kept in your office or in
20 the business office?

21 A Yes, I would have left everything there.

22 Q Okay. So you didn't take the files with you,
23 correct?

24 A Correct.

25 Q Was there a post-falls event finder maintained

1 at the facility?

2 A Sounds familiar but I don't remember
3 specifically.

4 Q Do you recall who would have been responsible
5 for maintaining the post-falls event binder?

6 A I don't remember it, so I would be speculating.
7 I would assume the nurse.

8 MR. CORDOVA: Don't speculate.

9 A Okay.

10 Q (BY MS. CLEMENT): Do you remember where that
11 post-falls events binder was located?

12 A I just -- I don't remember the binder.

13 Q Did you ever speak with Mrs. Boice's physician
14 Dr. Awan?

15 A I don't remember speaking to Dr. Awan.

16 Q Did you ever speak with Kaiser home healthcare
17 providers who came to the facility to treat Mrs. Boice?

18 A I may have. I remember -- I don't remember if
19 it was Kaiser home health or a hospice representative,
20 but do I remember speaking with somebody at the facility
21 in my office.

22 Q Do you remember if it was a man or a woman that
23 you spoke with?

24 A I'm trying to picture, and I don't remember. I
25 think it was a woman. But I'm sorry, I don't remember.

1 Q Does the name Joyce Story sound familiar to you?

2 A No.

3 Q Did you expect the caregiving staff to notify

4 Kaiser home health of any changes in Mrs. Boice's

5 condition since the last time they had been in to see

6 her?

7 A Yes.

8 Q How frequently would you meet with Doris

9 Marshall during your tenure at Emeritus?

10 A In person or via phone.

11 Q In person.

12 A You know, I don't remember how often. I'd be

13 speculating on how often I saw her. I know we spoke on

14 the phone. But in person, I can't remember.

15 Q What type of topics would you be speaking with

16 Doris Marshall about on the phone?

17 A Follow-up to any questions after an event report

18 or an unusual incident report, any resident issues,

19 really anything, any questions at all on either party's

20 part.

21 Q Did you ever have difficulty communicating with

22 Doris?

23 A Not that I remember, no.

24 Q Did you ever have any concerns that Doris wasn't

25 available to answer questions from you?

1 A Not that I remember, no.

2 Q Did any your staff ever report to you that they
3 had difficulty communicating with Doris?

4 A No, I don't remember that.

5 Q Did any of your staff tell you that they had
6 difficulty getting ahold of Doris or her being
7 responsive to their questions?

8 A No, not that I remember.

9 Q Did Doris share with you her concerns that she
10 had at other facilities that she was overseeing in
11 region one that she felt there were problems with
12 understaffing?

13 MR. CORDOVA: Assumes facts.

14 A I don't remember anything like that from her.

15 Q (BY MS. CLEMENT): Did you ever speak with other
16 executive directors at Emeritus who told you that they
17 had concerns about lack of adequate staff?

18 MS. WELLS: It's vague and ambiguous. It's
19 overly broad and lacks foundation.

20 A I don't remember specific conversations
21 regarding staffing. But speaking with other EDs, quite
22 often, yes.

23 Q What kind of concerns did the other EDs from
24 Emeritus raise with you?

25 MR. CORDOVA: Lacks foundation, assumes facts.

1 A I wouldn't necessarily say concerns. I think
2 there were certainly comradery and EDs talking and
3 supporting one another and, "Hey, has this happened to
4 you? How did you handle it?" That sort of thing. We
5 might collaborate on how to resolve an issue that was
6 going on in the building. So it wasn't uncommon to talk
7 with the other EDs.

8 Q Do you remember reaching out to any EDs about
9 concerns you had about running Emerald Hills?

10 MR. CORDOVA: Misstates prior testimony.

11 A I don't know that I would say it's about
12 concerning in running it. It would be questions of
13 maybe somebody who had more experience or I know had
14 handled a situation that was similar to whatever was
15 happening. But like I said, it really wasn't uncommon
16 to call and lean on each other.

17 Q (BY MS. CLEMENT): Okay. And do you remember
18 any particular instances where you called to ask another
19 executive director with more experience than you about
20 something that was going on in your building?

21 A Specifically, no. But I always felt that there
22 was somebody there to answer questions or just -- for
23 lack of a better phrase -- vent to if there was
24 something going on that you wanted to share.

25 Q Did you ever have family members raise what, to

1 you, were serious concerns about staffing in Emerald
2 Hills during your tenure?

3 MR. CORDOVA: Vague and ambiguous.

4 MS. WELLS: Lacks foundation.

5 A I definitely had families that would bring
6 concerns to me and every one of them, I would take very
7 seriously, regardless of, as you said, any serious
8 concerns. I just took every one of them seriously. So
9 with regard to staffing, yes. With regard to anything
10 else, yes.

11 Q (BY MS. CLEMENT): Did you ever make any changes
12 in -- strike that. Did you ever add any more staff to
13 provide care to residents in response to resident or
14 family members' complaints that the facility was
15 understaffed?

16 MR. CORDOVA: Misstates prior testimony.

17 A Not that I remember. But again, that would be a
18 budget decision.

19 Q (BY MS. CLEMENT): So in other words, when you
20 say it would be a budget decision, do you mean that that
21 would be something that would be out your control?

22 A Yes.

23 Q And when you had family members who raised
24 issues with you that they felt the facility did not have
25 enough staff, did you always report those to corporate?

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A I believe so. I think any time there was a family concern reported to me, I always wanted my regional team to know the content and context of it.

Q Did anyone from Seattle corporate ever tell you in response to family member concerns that the facility did not have adequate staff, that they were going to increase your budgets and give you more staff?

A No.

Q Do you remember specifically having any discussions with Rhonda Castleberg about Mrs. Boice's functional decline, including the pressure ulcers?

MR. CORDOVA: Vague and ambiguous.

A I don't remember our conversation, the details of it. I just -- I remember that she and Doris were involved in what to do and how to proceed.

Q (BY MS. CLEMENT): Did Rhonda or Doris come to the facility and look at Mrs. Boice while she was still there?

A Not that I remember. I can't say for sure.

Q Did Lisa Hulse come to the facility and look at Mrs. Boice while she was there?

A I don't remember that, no.

Q Did Lisa Hulse ever come to the facility during your tenure as the administrator, to your knowledge?

1 A Yes.

2 Q And why did she come to the facility, to your
3 knowledge?

4 A She had been there on more than one occasion.
5 She had come for the two audits. She had come for one
6 of those marketing visits, I think. I could be wrong
7 about that. I may be wrong about that.

8 Q When you say marketing visit, is when you went
9 out --

10 A To the communities, yes. Sorry to interrupt. I
11 believe she came more than once on what would be called
12 a regional visit but may have been in the absence of a
13 regional nurse.

14 Q Any other times you can think of Mrs. Hulse
15 coming to the facility other than for an audit, a
16 marketing visit or when there was no regional nurse to
17 do a visit?

18 A I am trying to remember if she came in response
19 to the request for records for Agnes Fitch. She may
20 have come, herself, to get them. But I remember her
21 there with regards to records, and I think that may have
22 been the case.

23 Q Did Lisa Hulse or Doris Marshall or Rhonda
24 Castleberg question you about missing documents from
25 Mrs. Boice's Emeritus chart?

1 A No.

2 Q Did you -- were you ever counseled about records
3 missing from any resident's chart while you were at
4 Emeritus?

5 A No.

6 Q Did Lisa Hulse ever counsel you on the lack of
7 care plans in resident records?

8 A No.

9 Q In response to the comprehensive process review
10 or audit, were you given any written plan of action as
11 to what you were supposed to do in response to the audit
12 results?

13 A You know, I can't remember. There may have been
14 something generated following it. But I don't remember.

15 Q I will let you know they have never produced
16 anything to me about a written plan of action. So I am
17 just trying to have you tap your memory if you ever got
18 something like that.

19 A You know, I may have, but I really don't
20 remember that. The audit, itself, may have spoken for
21 itself, but I don't remember.

22 Q Did anyone from corporate ever tell you that the
23 resident records were not complete?

24 MS. WELLS: It's vague and ambiguous. It's
25 overly broad.

1 A From corporate, no. I believe that was
2 something that we discovered on the local level. In
3 fact, I think I talked about this the last time. I
4 think face sheets were missing. I think there was a
5 contract missing from the system, incomplete file. But
6 I don't think that was brought to our attention by
7 corporate.

8 Q (BY MS. CLEMENT): Was there any bonus system in
9 place that Emeritus provided to you or other department
10 heads that had to do with quality of resident care?

11 MR. CORDOVA: Asked and answered.

12 MS. WELLS: Vague and ambiguous. It lacks
13 foundation.

14 A Quality of resident care. No, I don't remember
15 one from that.

16 Q (BY MS. CLEMENT): Did you ever notify the fire
17 department, the local fire department, about residents
18 who were not able to get out of bed without the
19 assistance of one or more people?

20 A I don't remember specifically, but I may have.

21 Q Do you recall ever notifying the fire department
22 about any resident in the facility for any reason?

23 A I do remember having notified them. I just
24 don't remember specifically what it was about.

25 Q And did you have a form that you would send the

1 fire department?

2 A I think it was a form like a template letter.

3 Q And would you maintain those letters that you
4 sent to the fire department in your office or the
5 business office?

6 A My office with the other state reports.

7 Q Would you have a copy of the letter you wrote to
8 the fire department in the resident's chart?

9 A I may have. I don't remember.

10 Q And to whom would you address the letter to the
11 fire department?

12 A I believe that would be the fire marshal.

13 Q And to your understanding, who -- who or where
14 was the fire marshal when you were at Emerald Hills?

15 A I don't remember a name, but I believe that's a
16 Placer County department. I just don't remember, and I
17 could be confusing it with my time at Sunrise.

18 Q Would it be a letter that you would send via fax
19 or e-mail or just pop in the mail?

20 A Fax followed by mail.

21 Q When you say you could be confusing this with
22 Sunrise, do you mean that your experience of notifying
23 the fire marshal about residents could have been what
24 happened when you were at Sunrise, not at Emerald Hills?

25 A No. I am speaking specifically to was it a

1 county -- because I know that Emerald Hills fell under
2 Placer County sheriff rather than a local police
3 department. I don't remember the fire department was
4 the same situation.

5 Q Okay. At any rate, you don't remember any
6 specific reasons why you would be reporting residents to
7 the fire marshal; is that correct?

8 MR. CORDOVA: Misstates testimony.

9 A That's what I said I don't think that is
10 correct.

11 Q (BY MS. CLEMENT): So what is your understanding
12 as to what would prompt you to report something to the
13 fire marshal?

14 A If somebody was not able to ambulate
15 independently. I think that we reported for being on
16 oxygen. That was something that got reported to the
17 fire department. And I can't remember the other
18 instances.

19 Q Okay. So what -- what do you mean by a resident
20 not able to ambulate independently?

21 A You know, I am sorry. I think I am getting that
22 confused with having a list of nonambulatory residents
23 available for when the fire marshal comes for
24 inspection. So notifying of bedridden, yes. But I
25 don't recall having that situation while I was at

1 Emerald Hills.

2 Q Okay. So when you say notified of bedridden,
3 you mean you would notify the fire marshal if a resident
4 was bedridden by your definition you have already
5 explained to us. But as you sit here today, you don't
6 recall ever having a bedridden resident; is that right?

7 A Correct.

8 Q And to be clear, your understanding of
9 bedridden, while you were the administrator, was a
10 resident who needed assistance in turning or
11 repositioning in bed?

12 A As I sit here today, that's what I remember.
13 I'm not exactly sure of what my exact definition was
14 back then.

15 Q Do you recall ever reporting having a bedridden
16 resident to the Department of Social Services?

17 A No, I don't remember that.

18 Q Let's just go over Exhibit 330 for a moment
19 while it's out before I put that away. Who from
20 Emeritus would instruct you as to whom to designate as
21 the person responsible in your absence?

22 A It would have been my direct supervisor. But it
23 may have come from another regional member.

24 Q Could it also have come from the vice-president
25 of operations, Catherine Ratelle?

1 A Sure.

2 Q Or Lisa Hulse?

3 A Sure.

4 Q But at any rate, you weren't picking the person
5 to be the designee in your absence; is that correct?

6 A Correct. But to clarify, I may have simply
7 said, "Should I put this person down as -- " and wait
8 for the yes or no.

9 Q Okay. And did you have to complete a new
10 designation of facility responsibility whenever you
11 lost, either by termination or resignation, the person
12 who had previously been your designee?

13 A Yes. But I don't remember if that would be
14 prompted by them leaving or prompted by my expecting to
15 not be in the building for a period of time.

16 Q With regard to the first designee we have marked
17 here, Bertha Bell, do you remember why you designated
18 her?

19 A I don't --

20 Q Why do I have them out of order?

21 A I don't remember why, but it would not be
22 uncommon that the nurse in the building would be that
23 individual.

24 MR. CORDOVA: Are we looking at the same
25 document?

1 MS. CLEMENT: We are. I just think I stapled
2 them out of order. I think the original is correct.
3 Yeah, it is. Sorry. My stapling snafu.

4 Okay. So I think we should look at the real
5 exhibit. Sorry about that. I put this one out of
6 order. I tried to put it in chronological order. So
7 that's -- okay. Here we go.

8 So the first designation on Exhibit 330 is dated
9 June 22nd, 2007. And the designee is Shari Henry.

10 A Correct.

11 Q That's S-H-A-R-I.

12 MR. CORDOVA: Wait for a question.

13 Q (BY MS. CLEMENT): And who's Shari Henry?

14 A Shari Henry was the community relations director
15 when I started at Emerald Hills.

16 Q Okay. And do you know why Shari left?

17 A She went to Emeritus at Rancho Solano.

18 Q As a CRD?

19 A I think she went directly into dining services,
20 and that had been her history. And then she also came
21 back as dining services at Emerald Hills sometime later.

22 Q During your tenure?

23 A Yes.

24 Q And was she still there when you left?

25 A No. She left before I did and I -- I don't

1 remember if it was to go within the company. Actually,
2 no, I think it was she left the company.

3 Q Do you know why she left the last time?

4 A I don't remember. She gave notice. I don't
5 remember the duration though.

6 Q Okay. Was there a reason why you didn't have
7 the nurse as your designee when you designated Shari
8 Henry on June 22nd, 2007?

9 A I don't remember. At this point, being so new,
10 I may have taken the suggestion of my boss who to
11 identify.

12 Q Okay. Then the next designee to the Department
13 of Social Services is dated August 17, 2007, correct?

14 A Correct.

15 Q And that's when you designated Mary Kasuba?

16 A Correct.

17 Q Okay. And then on November 1st, you designated
18 Danielle Stevenson, who was also a community relations
19 director or marketing person?

20 A Correct.

21 Q And did Danielle replace Shari, or did you have
22 someone in between them?

23 A I think she replaced her. I don't think there
24 was anybody between them.

25 Q Okay. And then December 7th, 2007, you

1 designated Bertha Bell, correct?

2 A Correct.

3 Q And then on May 3rd, 2008, you designated Peggy
4 Stevenson, correct?

5 A Correct.

6 Q And how long had Bertha Bell been gone, to your
7 best estimate, before you designated Peggy Stevenson?

8 A I don't remember when Bertha left. So it may
9 have been a month or more.

10 Q But in order for us to try to figure out the
11 timeframe of when Bertha left, we would look for the
12 insulin incident that you described where it was
13 reported to -- on the event reporting and to the state?

14 A Yes, and probably there is an HR record of her
15 departure.

16 Q Okay. And then the last page of Exhibit 30 is a
17 designation of Davina Barker by Melanie Werdel, the
18 executive vice-president of administration, on
19 January 16th, '09. But that was after you had left,
20 correct?

21 A Correct.

22 Q And do you know who Davina Barker was?

23 A Yes.

24 Q And who was Davina?

25 A She was executive director for another Emeritus

1 community.

2 Q Was that Hazel Creek?

3 A Yes.

4 Q Did you ever borrow staff from Davina Barker to
5 meet your staffing needs at Emeritus?

6 A I believe so. But I don't remember which staff,
7 meaning which discipline.

8 Q If you borrowed staff from another facility,
9 would you have to open up a file at the facility for
10 them and have all the clearance documentation available?

11 A I don't remember if we had to do that.

12 Q Would you have to pay those staff and have time
13 detail reports for them in the facility?

14 A I don't remember how it was done. But it was
15 done so that Hazel Creek wouldn't be paying for that
16 time out of their budget. It would be coming out of
17 Emerald Hill's budget to pay for them.

18 Q Do you ever remember borrowing any caregiving
19 staff from other facilities other than a nurse?

20 A I may have, but I don't remember.

21 Q Okay. If you did, there would, of course, be
22 time detail reports that would show the employee had
23 swiped in and swiped out to come to work?

24 A Unless they didn't have their -- whatever means
25 they use to punch in and out. And then it would have

1 been a handwritten record.

2 Q Did you ever loan caregiving staff to other
3 facilities besides Peggy Stevenson, your nurse?

4 MR. CORDOVA: Misstates prior testimony.

5 A I don't think so. I may have, but I don't
6 remember doing so.

7 Q (BY MS. CLEMENT): Why did you forward -- strike
8 that.

9 Why did you forward the Mary Kasuba,
10 October 12th, 2007, e-mail to Lynn Kuzmich?

11 A I don't remember sending it to her. It clearly
12 shows the e-mail was sent, but I don't remember why. I
13 don't remember doing it.

14 Q And who is Lynn Kuzmich?

15 A She's a personal friend.

16 Q Is she an educator?

17 A An educator?

18 Q Yes.

19 A Teacher? No.

20 Q What does Lynn Kuzmich do?

21 A She's a nurse.

22 Q And where does she work?

23 A I don't know where she currently works, but
24 she's in southern California.

25 Q Was she affiliated, at all, with Emeritus?

1 A No.

2 Q Was she a friend that you had from your prior
3 work experience with Vitas?

4 A Yes.

5 Q Had you shared with Lynn Kuzmich concerns that
6 you had regarding staffing at Emeritus/Emerald Hills?

7 A I may have. I don't remember the content of all
8 of our conversations.

9 Q Tell me the best of your recollection of what
10 you shared with Lynn Kuzmich about concerns you had
11 regarding staffing at Emerald Hills.

12 A I just -- I don't remember our conversations
13 about it. Given that she was a personal friend, it
14 would be calling and telling her about my day and about
15 good day, bad day, why. And we talked about so many
16 things, I don't remember specifically.

17 Q Did you have bad days at Emeritus/Emerald Hills?

18 A Sure.

19 Q Can you tell me what were your three worst days
20 at Emerald Hills?

21 A Oh, can I take a minute?

22 Q Yes, of course.

23 A Okay. I don't remember if I can come up with
24 whole days. Give me a second.

25 You know, I can't remember specifically. I

1 think that any day that was exceptionally long was a
2 hard day. If you threw in an issue where at the end of
3 long day a -- something was reported to me that would
4 necessitate completing a report and staying to finish it
5 and talk to corporate about it, then that would be not a
6 great day, just given that it would be long and tiring
7 and labor intensive.

8 I'm sorry. I mean, I can't think out of all
9 that time three days specifically of what happened. I
10 can tell you what would have made up a bad day, and that
11 would be exceptionally long. It may be things that
12 would happen that would prevent me from getting work
13 done so that I would need to stay and complete the work.

14 I think anything that would be an emotionally
15 hard day, if there was an issue. If a resident that had
16 been there for some time passed, it would be a hard day.
17 I mean, to pick three and remember them from start to
18 finish, I can't. But that would be --

19 Q Are there any days that stand out in your mind
20 as being particularly difficult, there was an incident
21 or incidents that occurred on a particular day that was
22 troubling to you?

23 A There was a day that I had a meeting with a
24 resident's family, and it was very emotional, because I
25 felt very wrongfully attacked in the meeting. And I

1 think that's just why it was so clear in my memory,
2 because it was very aggressive. Catherine was there
3 with me, Catherine Ratelle. And it was just a terrible
4 experience to sit there and have somebody tell me things
5 about myself that were not true.

6 Q Can you share with me what things that family
7 member told you that weren't true?

8 A He accused me of sitting with my back to the
9 door, which was actually true. That was the orientation
10 of my office. But after that meeting, we reoriented my
11 entire office, so I could be facing forward -- and that
12 I sat and would cross and cut out the budget. I don't
13 remember exactly how he said it, but it was more that he
14 would mimic that I would sit and -- I can't remember how
15 he said it -- cross out the budget. And I mean, the
16 context of it was that I was trying to withhold. And it
17 was so unrepresentative of anything that I was or did,
18 and it hurt.

19 And I remember it, because it caught -- I mean,
20 my eyes welled up, and I probably am right now, started
21 to cry. And it was just -- it was unfair and wrong.
22 And, in fact, the meeting ended on a very -- much more
23 amicable note. It was very -- I think he saw that he
24 had upset me, and I think during the course of the
25 meeting, he realized there had been some

1 miscommunication between him and his father. And any of
2 the issues that he brought up, we discussed. And there
3 were no further concerns or complaints from him. And
4 actually, our rapport, while it was very amicable and
5 friendly before, was even more so thereafter.

6 But that was a very -- that was a very difficult
7 day. I felt that it was very unfair.

8 Q What was your understanding of when you say
9 this -- that you were trying to withhold? I am not
10 understanding. Withhold what?

11 A I mean, he would tell me -- I'm sorry I have to
12 paraphrase, but it was that I would sit there with a
13 budget and cross out this and cross out that. And that
14 implies to me taking money away or withholding funds.
15 And that's just not accurate. It's not true and it
16 wasn't fair.

17 Q And is that not accurate because you, yourself,
18 personally didn't have any control over the budget?

19 A Correct.

20 Q Did Catherine Ratelle express to him that you
21 personally didn't have any control over the budget?

22 A Honestly, I don't remember her response to him.
23 I was emotional and kind of just stepped away to have
24 some water and try to compose myself. So I don't really
25 remember how that matter got addressed.

1 Q Was more staff added to your budget as a result
2 of the meeting that you had with Mr. Fleming? And
3 Catherine Ratelle?

4 A Not that I remember, no.

5 Q And it was Mr. Fleming, correct?

6 A Correct.

7 Q And the meeting took place after you received an
8 e-mail with an agenda from Mr. Fleming?

9 A Yes.

10 Q And you had forwarded that e-mail to your
11 division team?

12 A I mean, I don't remember all the happenings
13 about it. But, yes, I would have.

14 Q I'm showing you now, again, Exhibit 157. And
15 could you turn to page 13.

16 A Are we missing a number?

17 Q It's not numbered? Okay. Sorry. Mine is
18 numbered. I don't know why yours isn't.

19 A I don't know what page 13 is.

20 Q Let me find it for you. Why don't you pass it
21 back to me. Sorry about that. While I am going through
22 there, I will just ask you a question. Did Emerald
23 Hills have an adult day-care program while you were the
24 executive director?

25 A They may have. I don't remember. I think they

1 did, but I don't remember about it. I don't know if
2 that was for internal residents or external. But I
3 don't -- I don't remember about that.

4 Q Do you remember someone from corporate by the
5 name of Esther who helped with move-out analysis?

6 MS. WELLS: Assumes facts, lacks foundation.

7 A I remember an Esther who was not from corporate
8 but was a nurse that came to our building. I think I
9 didn't remember her name in the last deposition, that I
10 referred to a nurse from another building. Esther.

11 Q Okay. Do you remember what building she came
12 from?

13 A It may have been Salinas.

14 Q Do you remember why Esther came to your
15 building?

16 A The start of the Vigilant process, to get our
17 residents converted over to Vigilant and complete the
18 assessments.

19 Q And was that during a time when you didn't have
20 a nurse?

21 A Yes.

22 Q And how long did Esther stay at your building?
23 Was it more than one day?

24 A Yes.

25 Q Was it more than a week?

1 A I don't believe so.

2 Q I'll just show you Exhibit 157, e-mail from you
3 to Lisa Hulse dated February 29, 2008.

4 A I clearly liked Esther.

5 Q Had you -- had you been for a long period of
6 time without a nurse when Esther came to your facility
7 to help with implementing the Vigilant program?

8 MS. WELLS: Vague and ambiguous, lacks
9 foundation.

10 A I don't remember when Bertha left. What I
11 remember about Esther was that she was knowledgeable and
12 helpful. So her time there was clearly good.

13 Q (BY MS. CLEMENT): Did you have any concerns
14 about any of the nurses that worked for you other than
15 the one incident you related about Bertha Bell?

16 A I don't remember enough about my time with
17 Tracy. And during Peggy's time there, I didn't have any
18 reason to believe I should have a concern. I have no
19 issues with her.

20 Q And if you can turn to the next page, it's an
21 e-mail from you to Lisa Hulse and then below it, an
22 e-mail from Lisa Hulse to you. And this is regarding
23 the residents who walked across Highway 49, March --
24 excuse me -- March 18, 2008. Take a minute to read that
25 to yourself, please.

1 A Yeah.

2 Q Did you have residents in the assisted living
3 side of the building who suffered from dementia?

4 MS. WELLS: Calls for medical opinion.

5 A At least -- at least one, based on what this
6 says. May have been more than one but I can't say
7 specifically if it was dementia or mild cognitive
8 impairment.

9 Q What was your understanding what the difference
10 was between dementia and mild cognitive impairment while
11 you were administrator at Emerald Hills?

12 MR. CORDOVA: Calls for medical conclusion.

13 A Honestly, it's been years since I have looked at
14 the definition. But from what I can recall, mild
15 cognitive impairment is far less pervasive. Not really
16 sure if it's following a disease process. It may be
17 pre-being-diagnosed with Alzheimer's, but I just can't
18 remember exactly what the definition was for it, but not
19 an Alzheimer's or dementia diagnosis.

20 Q (BY MS. CLEMENT): And what was your
21 understanding as to what level or stage of dementia of
22 residents you could admit to Emerald Hills?

23 MR. CORDOVA: Lacks foundation.

24 A I don't think there was a stage limit or a level
25 limit. It was -- I don't recall a limit being placed on

1 the diagnosis.

2 Q (BY MS. CLEMENT): Okay. So no one from Emerald
3 Hills ever told you, for example, that Emerald Hills was
4 only going to allow residents who were in the middle
5 stage of dementia into their facilities?

6 MS. WELLS: Lacks foundation. It's an
7 incomplete hypothetical.

8 A No, I don't remember being instructed about
9 that. I think what you take into consideration, though,
10 is whether or not somebody is -- has behaviors that
11 would make him or her a danger to herself or others.
12 But in terms of keeping it at a middle stage, no.

13 Q Did anyone from Emerald Hills ever tell you
14 that -- strike that.

15 Did anyone from Emeritus ever tell you that
16 Emerald Hills had advised the state in their application
17 for a dementia waiver that they would only accept
18 residents through stage six or the middle stage of
19 dementia?

20 A No, I don't remember being told about that.

21 Q Was it your understanding from your training and
22 experience as the administrator at Emerald Hills that
23 Emerald Hills was operating with the State of California
24 Department of Social Services on an honor system, in
25 other words, they are to self-report any regulatory

1 violations?

2 A Yes.

3 Q And that honor system with the state required
4 Emeritus to self-report any significant changes in
5 condition of their residents?

6 A Yes.

7 Q And the honor system required Emeritus to
8 self-report if they were altering from their plan of
9 operations that they submitted to the state in order to
10 get their license and the waivers that they had from the
11 state?

12 A That would make sense. But if that reporting
13 was being done by me, and I didn't know or wasn't aware
14 that there was a certain stage limit, then I don't see
15 how I could report that.

16 Q I'm not suggesting that you could. Did you get
17 any training from Emeritus about what functional status
18 of residents you could accept into your building at
19 Emerald Hills?

20 MR. CORDOVA: Asked and answered.

21 A No, not that I remember.

22 Q (BY MS. CLEMENT): Did you get any training from
23 Emeritus about what cognitive status the residents were
24 at that you could accept into Emerald Hills?

25 A No.

1 Q I'm going to show you now a part of Emeritus'
2 plan of operation for -- specifically for their dementia
3 waiver with the State of California and ask if you have
4 ever seen that document before.

5 A I don't remember it. I mean, as I sit here
6 today, I don't. But it's possible. But I don't
7 remember this.

8 Q Okay.

9 A It's very familiar in that there is a lot of
10 industry documentation that reads similarly because of
11 the stages.

12 Q Do you see in the -- we'll mark this as
13 Exhibit 333. Do you see in the -- do you see in the top
14 paragraph that Emeritus representing to the state that
15 they are only going to accept residents through the
16 middle stage or stage six of dementia?

17 MS. WELLS: The document speaks for itself.

18 MR. CORDOVA: Join. Instruct the witness to
19 only answer to her personal knowledge.

20 A Can you repeat the question please.

21 Q (BY MS. CLEMENT): Yes. Do you see where the
22 plan of operations for the dementia waiver that Emeritus
23 submitted to the state indicated they would only be
24 accepting residents through the middle stage or stage
25 six of dementia?

1 A I do see that here.

2 Q Did anyone from Emeritus ever give you a copy of
3 their plan of operation to get the dementia waiver,
4 which we have marked now as Exhibit 333?

5 A I don't remember being given a plan.

6 Q Did anyone from Emeritus ever advise you what is
7 reflected in this -- part of this plan to the state to
8 get the dementia waiver that Emerald Hills would only
9 except residents through the middle stage or stage six
10 of dementia?

11 MR. CORDOVA: Asked and answered.

12 MS. WELLS: Assumes facts and calls for
13 speculation. It's a partial document.

14 A From what I can remember, this is the first time
15 I'm seeing or hearing this.

16 MS. CLEMENT: Okay. Is that coming as a
17 surprise to you that you -- that Emeritus had told the
18 state they were only going to accept residents through
19 the middle stage of dementia?

20 MS. WELLS: Lacks foundation, calls for
21 speculation.

22 A As I sit here today, yes.

23 Q (BY MS. CLEMENT): Did you have residents at
24 Emerald Hills that were admitted or retained during your
25 administration that were -- had progressed in their

1 dementia beyond the middle stage?

2 MR. CORDOVA: Calls for a medical conclusion.

3 MS. WELLS: Join.

4 A I don't remember. I may have. Or we may have.
5 But I don't remember.

6 Q (BY MS. CLEMENT): Okay. What is the
7 description for late-stage dementia or stage seven on
8 the plans submitted by Emeritus to the state?

9 A Motor and verbal dysfunction incontinent of
10 urine and bowel, may be bed bound and need total care.

11 MR. CORDOVA: For the record, the witness is
12 reading from a document.

13 Q (BY MS. CLEMENT): Did you have residents at
14 Emerald Hills that were incontinent of bowel and
15 bladder?

16 A Yes.

17 Q Did you have residents at Emerald Hills who had
18 motor and verbal dysfunction?

19 A Yes.

20 Q Did you have residents at Emerald Hills who
21 needed assistance with all their activities of daily
22 living?

23 A Yes.

24 Q Did you ever have an understanding that --
25 strike that.

1 While you were the administrator at Emerald
2 Hills, did anyone from Emeritus ever give you any
3 training that you were not to accept residents who
4 needed assistance with all their activities of daily
5 living?

6 A No.

7 MR. CORDOVA: Asked and answered. Let me make
8 my objections.

9 A Not that --

10 MS. WELLS: Lacks foundation. Sorry.

11 A Not that I remember, no.

12 Q (BY MS. CLEMENT): Did anyone ever tell you that
13 a resident who needed assistance with all their
14 activities of daily living was a prohibited condition?

15 MR. CORDOVA: Asked and answered.

16 A Not that I remember, no.

17 Q (BY MS. CLEMENT): And you did have such
18 residents at Emerald Hills, correct, residents who
19 needed assistance with all their activities of daily
20 living?

21 MS. WELLS: Vague and ambiguous. Lacks
22 foundation. It's an incomplete hypothetical.

23 MR. CORDOVA: Misstates prior testimony.

24 A From what I can recall, yes.

25 Q (BY MS. CLEMENT): And so assistance with all

1 activities of daily living would be assistance with
2 ambulation, toileting, bathing, feeding, and dressing?

3 (Whereupon the court reporter marked
4 Exhibit 333.)

5 A Yes. Just to clarify, different levels of
6 assistance for each and every one of those conditions,
7 it was possible. So I didn't want to be completely
8 broad, but when you said feeding, it struck me it might
9 not mean needs to be fed. It might mean somebody needs
10 prompting or assistance getting their meals.

11 Q (BY MS. CLEMENT): Did you have an understanding
12 that your caregiving staff was not allowed to feed
13 residents, in other words, spoon feed them like you
14 would a baby?

15 A I'm sorry. The question?

16 Q Yes. Did you have an understanding while you
17 were the administrator at Emerald Hills that your
18 caregiving staff were not allowed to spoon-feed
19 residents?

20 A I don't remember that, no.

21 Q Did you know that some of your caregiver
22 employees thought that they weren't allowed to
23 spoon-feed residents?

24 A No. I think, you know, with regard to
25 spoon-feeding, if I could clarify, I think -- you know,

1 as I sit here today and try to remember back to that
2 time, spoon-feeding a resident could speak to a dignity
3 issue if they are capable of feeding themselves. So
4 there would be a matter of could they at all lift and be
5 assisted to get food in versus somebody who just simply
6 can't and has to be fed. And I think there is a
7 difference to that.

8 So somebody feeding somebody who would otherwise
9 assist, albeit slower, and feed themselves, that would
10 be a dignity issue, that it would be encouraged that
11 they would be able to continue feeding themselves. Does
12 that make sense?

13 Q Let's see if I can clarify. If you had a
14 resident who came into the facility able to feed
15 themselves but within a short period of time was not
16 able to do so, is that something that you would report
17 to the state?

18 MS. WELLS: Lacks foundation. It's an
19 incomplete hypothetical.

20 MR. CORDOVA: Join.

21 Q (BY MS. CLEMENT): In other words, they were
22 completely incapable of getting food into their mouth.

23 A I think so. I mean, I think it would be -- it's
24 something that is reportable, because it's a change of
25 condition. You know, what I am speaking to in this

1 instance of somebody not being allowed to feed a
2 resident, I would think more in terms of I wouldn't want
3 staff feeding a resident who could otherwise still
4 manage to get the food in themselves, because we would
5 want somebody to maintain as much independence as
6 possible. And it's hypothetically speaking that that
7 would be -- it's just to clarify the feeding issue.

8 Q To follow up on that, you said that you would
9 want your residents to maintain as high level of
10 function as possible; is that correct?

11 A Um-hum, yes.

12 Q And did you expect your caregiver staff to
13 assist residents who needed hands-on assistance with
14 ambulation in order to ensure that those residents
15 maintained that ambulation skill?

16 MR. CORDOVA: Vague and ambiguous.

17 Q (BY MS. CLEMENT): I'll rephrase. Did you
18 expect your caregivers to spend time with the residents
19 helping them to walk so that they wouldn't lose their
20 ability to walk?

21 MS. WELLS: Lacks foundation. It's an
22 incomplete hypothetical.

23 A If able and when possible, yes.

24 Q (BY MS. CLEMENT): What do you mean?

25 A If a resident could, then I would want them to

1 if it was a safe situation for them to do so.

2 Q Did you believe that you had enough staff on
3 duty to allow the caregivers to have time to walk with
4 those residents who needed stand-by assist or some type
5 of assistance to walk?

6 MR. CORDOVA: Overbroad. Vague and ambiguous.

7 MS. WELLS: Join. Lacks foundation.

8 A I don't know. You know, I can't remember the
9 staffing. I can't remember each circumstance.

10 Q (BY MS. CLEMENT): Looking at Exhibit 157, the
11 e-mails of May 18, 2008, were these the residents George
12 Rhoades and Rosie Walls?

13 A Yes.

14 Q And did you report this incident of the
15 residents trying to cross the highway on -- strike that.

16 Did you report this incident of the
17 cognitively-impaired residents jaywalking on Highway 49
18 to Emeritus corporate in Seattle?

19 MR. CORDOVA: Assumes facts.

20 A This e-mail refers to the fact that I did.

21 Q (BY MS. CLEMENT): And was it your practice to
22 send all resident events to corporate Seattle?

23 A Yes.

24 Q What are the first-responder sheets?

25 A I think we talked about it last time. I don't

1 remember all of it specifically, but I believe it's
2 before an event report, which is an internal document,
3 would be completed, there was an information-gathering
4 report done by staff.

5 Q I am going to give you what we marked as
6 Exhibit 84. This is what Emeritus has produced as the
7 resident event tracking summary for Emerald Hills. And
8 you see on the bottom right-hand side, the far right
9 corner, there is little numbers up there. Do you see
10 that?

11 A Um-hum.

12 Q If you go to the page numbered 1156 on the far
13 right --

14 A Um-hum.

15 Q Do you know whose initials JC are, right after
16 the second date?

17 A No, I don't remember.

18 Q Did you get a copy of this event tracking
19 report, this summary?

20 MR. CORDOVA: Vague and ambiguous.

21 A I don't remember it. I mean, I may have, but I
22 don't remember it. I don't remember anything like this.
23 It may have been electronic, but I don't remember it.

24 Q (BY MS. CLEMENT): Okay. Do you know who filled
25 in the information on the far -- on the very last column

1 on the far right, there was a little narrative section.

2 MS. WELLS: Calls for speculation.

3 MR. CORDOVA: Join.

4 A I don't.

5 Q (BY MS. CLEMENT): When you did the resident
6 event report, would you have to give a little narrative
7 in the report to incorporate as to what had happened?

8 A I don't remember if I did or if it had to be me,
9 but there was a narrative summary of the event.

10 Q If it wasn't you, who else in the facility was
11 authorized to fill out a resident event report and fax
12 it to Seattle?

13 A I believe the nurse or myself.

14 Q Okay. So if it was during the time period when
15 you don't have a nurse, the resident event report would
16 be filled out by yourself?

17 A Yes.

18 Q Did you always have time to fill out the
19 resident event reports?

20 A That's kind of a vague question. I don't know
21 if there was ever enough time. So sometimes, I would be
22 late. But I always did my best to get them done as
23 quickly as possible. But I do believe there was a
24 deadline that I think I even mentioned to it in here
25 that I had missed.

1 Q Okay. If you turn -- are you on 1157 or -- I
2 don't think I really -- maybe the next page.

3 Do you see on the top right-hand corner is the
4 event that occurred. It says 2/29/08 at 6:30 p.m. And
5 this was regarding the residents trying to cross
6 Highway 49 without a crosswalk.

7 A Yes.

8 Q When the -- Emeritus/Emerald Hills had a
9 community bus; is that right?

10 A Correct.

11 Q Was it just like one of those little paratransit
12 things or is it a big bus?

13 A They needed a special license for it, so it
14 was -- it wasn't like a little minivan or something. It
15 was a bus.

16 Q Okay. And did you have more than one bus
17 driver?

18 A At a time? I don't believe so. I think that
19 there was one when I started. She eventually left, and
20 then we had a new one train. I don't think there was an
21 overlap, though.

22 Q Okay. Did you ever go for a period of time with
23 no bus driver?

24 A We may have. But it -- it would have been
25 short, because it was a weekly event to go out on the

1 bus.

2 Q Okay. And was your bus driver -- the first bus
3 driver you had, was that Gwen?

4 A Yes.

5 Q And do you remember the name of the second bus
6 driver?

7 A I believe it was a gentleman that worked within
8 the community already. And I can't remember his name.
9 But if I heard it, I would probably recall.

10 Q Do you remember Gwen's last name?

11 A I don't.

12 Q Did Gwen have any other jobs besides driving the
13 bus?

14 A Within Emeritus or outside of?

15 Q At Emerald Hills or any other Emeritus facility.

16 A No, just -- just bus driver.

17 Q Okay. And was that bus always available for
18 your residents? In other words, was the bus at the
19 facility daily to take the residents places?

20 A I don't remember if she worked seven days a
21 week. She had a schedule, I just -- or not seven days a
22 week. I mean five days a week. I don't remember her
23 schedule.

24 Q Was the bus maintained at Emerald Hills, or did
25 it go from facility to facility?

1 A It was Emerald Hills. And it may have gone on
2 loan a time or two just like we may have used someone
3 else's, but not often.

4 Q Okay. When the residents went out with the bus
5 driver for -- was that to go to shopping and doctor's
6 appointments and things like that?

7 A Or for resident activities, restaurants, events.

8 Q Did anyone go with the bus driver to assist the
9 bus driver with the resident care?

10 MS. WELLS: Assumes facts.

11 MR. CORDOVA: Vague and ambiguous.

12 A So I don't know each and every time, but the
13 activity director would go. And then occasionally,
14 depending on who was going, one of the resident
15 assistants would accompany.

16 Q (BY MS. CLEMENT): Did you have a system in
17 place for ensuring that there was always additional
18 staff besides the bus driver on the bus with the
19 residents in case something came up or if they were
20 cognitively impaired?

21 MR. CORDOVA: Asked and answered.

22 A I don't remember a system other than case by
23 case, because the activity director would accompany. I
24 do believe when Gwen would take somebody to Long's or
25 something like that, and it may just be the two of them.

1 But if it was somebody who could complete that trip on
2 their own, then she would just take them by herself.

3 Q (BY MS. CLEMENT): How did it happen on this
4 occasion in February of 2008 that these two
5 cognitively-impaired residents got into the bus with the
6 bus driver without a caregiver?

7 MS. WELLS: Assumes facts.

8 MR. CORDOVA: Join.

9 A I don't see that they were on the bus. And from
10 what I can recall and in reading this, it looked like
11 they were out on their regular walk but were seen by the
12 bus driver.

13 Q (BY MS. CLEMENT): So you had two
14 cognitively-impaired residents who had left the facility
15 on a walk, and the bus driver saw them crossing
16 Highway 49?

17 A Yes.

18 THE VIDEOGRAPHER: This ends tape number three
19 of volume number two of today's deposition. We are
20 going off the record at 3:24 p.m.

21 (Whereupon a recess taken.)

22 THE VIDEOGRAPHER: We are on the record at
23 3:38 p.m. The date is August 13, 2012. This begins
24 tape number four of volume number two of the deposition
25 of Nancy Cordova.

1 Q (BY MS. CLEMENT): In looking at Exhibit 84,
2 does that refresh your recollection at all about whether
3 anyone from Emeritus corporate returned to you some type
4 of a summary that would demonstrate trends of events,
5 harmful events, that were happening to the residents in
6 your facility?

7 A It doesn't change my recollection. I just
8 don't -- I don't remember if it was sent to me -- I
9 don't remember how this was filled out, if it was done
10 by someone at the community, someone at corporate. I
11 just -- I don't recognize it in this way.

12 And I don't mean to interrupt you, but I
13 didn't -- it wasn't clear when we were finished if we
14 were done talking about the previous question. I
15 just -- I wasn't done. So I don't know if I could add
16 anything to it.

17 Q Okay. Hold that thought. I just want to follow
18 up with the one thing on this. Did you ever get any
19 kind of a summary trend report in your facility from
20 corporate that showed you things like you've got
21 excessive number of falls in this unit or across the
22 board in this facility or anything like that that would
23 alert you to potential trends that were causing harm to
24 the residents?

25 MR. CORDOVA: Objection. Asked and answered.

1 A I just -- I don't remember it. I mean event
2 tracking sounds familiar, but I don't remember a trend
3 sheet. And I just -- I don't remember.

4 MS. CLEMENT: Do you remember getting any
5 instruction from anyone at corporate, whether regional,
6 division or Seattle telling you, okay, we need you to
7 start looking at these issues, because it's indicating
8 to us you've got some high-acuity residents in your
9 facilities based on the event reports that you sent in?

10 A I don't remember in an overall and trend-type of
11 conversation. But individual residents would be
12 discussed with regional with the nurse or with
13 operations to talk about an unusual event or an incident
14 or something that had happened with a resident. So I do
15 remember that we would have specific resident
16 conversations, but I don't -- I don't remember a trend
17 conversation.

18 Q Okay. Did you have communication from corporate
19 on -- back to you on every resident event form that you
20 turned in?

21 A I can't say on every one of them, but I would
22 expect there was some on -- I mean this is one of them.

23 Q Right.

24 A So I know it happened. And I am sure it
25 happened with more frequency than one, but I don't

1 remember that it was with every one of them.

2 Q Okay. So I'll just represent to you this is the
3 only one we have gotten back from corporate that shows
4 any kind of interaction with you based upon a resident
5 event report. But I am just wondering if it was as
6 frequent -- I mean, I counted up 166 unusual incident
7 reports that you made to the Department of Social
8 Services in your tenure. And there were even more event
9 reports than that.

10 Do you remember if you were getting
11 communication from corporate on, say, every other day or
12 every three days on average about resident events were
13 occurring in the facility?

14 A No. I don't remember that.

15 Q Did you get any kind of a written response to
16 your resident event reports that you submitted?

17 A Not that I remember, no. And, likewise, for
18 some event reports, it might be something that I would
19 have called them about already to say this happened; you
20 will be seeing this soon, but this is what occurred.

21 Q Now, you wanted to follow up with me about
22 Exhibit 157, the e-mails between you and Ms. Hulse.

23 A Yes. Thank you.

24 Q Regarding the couple that walked across
25 Highway 49.

1 A Yes. So cognitively-impaired couple, what I
2 really just wanted to say here -- in fact, I think you
3 asked me about this earlier, whether or not a report had
4 been done to the state. I did so many that I don't
5 remember. But I would have expected that I did one.

6 So if there was not one, I can't explain why
7 there wouldn't be one, but I would expect that I did
8 one, because this would be reportable. I just did so
9 many, I think you just said you counted 166. So I can't
10 remember every one of them. But out of context, just
11 now remembering this couple, yes, cognitively impaired.
12 But one of the big issues in here is that the family was
13 very, very much onboard and in favor of them continuing
14 their walks.

15 So there was communication with the family about
16 the fact that they are walking every day, the family
17 wanted that to continue. They had a route. I think
18 what came up on this day and what was unusual is the
19 jaywalking, because it wasn't -- Highway 49 is the main
20 street through town. And so there was a signal that
21 they would ordinarily cross that to get to the shopping
22 center on across the street.

23 I believe what caused the concern, obviously,
24 is, oh, my gosh, they were jaywalking. And so we wanted
25 to put systems in place to make sure that they could be

1 safe. So I think I mentioned it briefly in here, but
2 family was involved in this. And family was involved in
3 the decision that they would continue to go for their
4 walks. So I just wanted to say that.

5 Q Okay. Was there any decision on your part to
6 have an employee go with them or follow them to make
7 sure that this -- these two residents, one of whom had a
8 diagnosis of Alzheimer's and the other one who had a
9 diagnosis of cognitive impairment, didn't get into any
10 trouble when they were out on their daily walks?

11 A You know, I don't remember how frequent they
12 were, but they walked more than once a day and were very
13 independent. And so even keeping track of when they
14 were leaving -- and we would always encourage that
15 residents are signing in and out so that we would know
16 who went in and out of the building. But I don't
17 remember -- there may have been a system in place to
18 have somebody go with them or a system in place to make
19 sure they were watching the time they were gone. But I
20 do know it was multiple times a day they would go for
21 their walks.

22 Q Did you expect residents who suffered from
23 Alzheimer's disease to remember to sign in and out of
24 the building?

25 A If somebody with Alzheimer's was going in and

1 out of the building, they were typically accompanied.
2 In this case, the family was very aware that they were
3 independently leaving the building to go on their walks,
4 not accompanied. And so if we could not get them to
5 remember, which was certainly possible, then when we are
6 witnessing them leaving, like a concierge who was at the
7 front desk could then sign them out so there would be at
8 least a tracking of when they had left the building.

9 Q Did you expect your residents who suffered from
10 dementia or cognitive impairment to be able to use their
11 pendants or call lights to get staff to come help them?

12 A You know, I can't remember if it was in place
13 there. I just don't remember if the residents in memory
14 care had them. I think some of them may be capable, but
15 that wouldn't be an appropriate call system for somebody
16 with dementia.

17 Q Okay. So you wouldn't expect someone with
18 dementia to be able to use a call system, correct?

19 A No. And they may have, but it may be somebody
20 has one so that if a staff is with somebody, they can
21 press that so that somebody would come if they needed
22 more assistance. But I don't remember -- I don't
23 remember a call system, pendent system, in memory care.

24 Q Would you think it would be an appropriate
25 intervention on a care plan to remind a demented

1 resident to use their call light to call for help?

2 MS. WELLS: Lacks foundation. Incomplete
3 hypothetical.

4 MR. CORDOVA: To the extent it calls for a
5 medical conclusion, I will object, as well.

6 A I don't know. I think it would have to depend
7 case by case. And if it was somebody who had
8 established that they could voice a request or voice a
9 concern, if this is somebody with mild cognitive
10 impairment -- so I don't know. It would just depend on
11 the resident.

12 Q (BY MS. CLEMENT): And who on your staff do you
13 think would be capable of making that determination if a
14 resident suffering from dementia could adequately use a
15 call light to summon help?

16 A I don't know. It may be -- I am having trouble
17 even conjuring up who we could be talking about in an
18 example -- but the staff taking care of the resident,
19 the nurse, the family, all who know resident well, to
20 say whether or not this is somebody who could voice a
21 need. But that could change, certainly, from time to
22 time.

23 Q Is there anything else that you wanted to add to
24 your testimony regarding Exhibit 157 and the residents
25 who were jaywalking on Highway 49?

1 A That was it. Thank you for letting me add that.

2 Q Sure. What to your understanding was this
3 informed choice disclosure that is listed in the third
4 from the bottom bullet point in Lisa Hulse's e-mail to
5 you?

6 A It's been a really long time, and I can't
7 remember. But I do believe it's specified to residents
8 with cognitive impairment living and being free to roam
9 the community. But it's been a long time since I have
10 read that.

11 Q Is it true that during the course of your
12 administration at Emerald Hills, you had many residents
13 who lived in the assisted living side who suffered from
14 cognitive impairment or dementia?

15 MS. WELLS: Vague and ambiguous.

16 MR. CORDOVA: Misstates prior testimony.

17 A There were residents. I don't know what "many"
18 would refer to, and I don't think I can count them. But
19 there were residents with mild-cognitive impairment in
20 assisted living.

21 Q (BY MS. CLEMENT): And there were also residents
22 in that side of the building who suffered from dementia,
23 correct?

24 A At least one.

25 Q Well, there were more than one, correct?

1 A I can't remember each and every one, but
2 possibly more than one. I know for sure of one.

3 Q Would you agree that the quality of staff in
4 terms of their training and experiment -- would you
5 agree that the quality of staff -- say it again.

6 Would you agree that the quality of services
7 provided to residents at Emerald Hills during your
8 tenure was dependent on the training and skills of your
9 staff?

10 A In part, yes.

11 Q Was it your understanding that the staff that
12 worked in the memory care unit caring for residents
13 there were not supposed to be working in that unit until
14 they had the state-required training and the
15 Emeritus-required training?

16 A I think we talked about this, but I don't
17 remember the timeframe outlined.

18 Q As the administrator at Emerald Hills, were you
19 reviewing the physicians' orders to make -- that came in
20 on a -- each day to make sure that they were being
21 carried out?

22 A Could you repeat? I'm sorry.

23 Q Yeah. Did you review physicians' orders as they
24 came into the facility to ensure that they were being
25 carried out by the caregiving staff?

1 A No, I had staff in place to do that.

2 Q And who did you have in place that was reviewing
3 the physicians' orders to ensure that they were being
4 carried out as ordered?

5 A The nurse would do that.

6 Q When you didn't have a nurse, who would do that?

7 A The med tech would do that.

8 Q Okay. And who was supervising the nurse and the
9 med tech to make sure that they were doing that,
10 assuming you had a nurse?

11 A I had every reason to believe they were doing
12 their job. So they would report to me, and I expected
13 that they are doing their job.

14 Q Okay. Did you have evidence from your audits
15 that your med techs weren't doing their jobs?

16 A Initially, yes. But then that was resolved.

17 Q When you say then that was resolved, what do you
18 mean?

19 A Well, we saw a resolution happen with systems
20 being put in place when Mary arrived and when the audit
21 happened and then Bertha and then Peggy. But I don't --
22 I don't remember the specifics.

23 Q What do you mean by that answer?

24 A Well, you asked what systems were put in place.
25 So what I recall from seeing an attachment of Mary's was

1 instructions to the med techs on processes, and then the
2 nurses that came thereafter overseeing the med room.
3 But they were overseeing that. I had no reason to
4 believe that wasn't happening until I found out that
5 Bertha was handling the insulin incorrectly.

6 Q Okay. Isn't it true that each of your nurses
7 after Mary Kasuba related to you similar concerns that
8 Mary Kasuba raised in her October 12, 2007 letter?

9 MS. WELLS: It's vague and ambiguous, overly
10 broad and argumentative.

11 MR. CORDOVA: Join.

12 A I don't remember a concern conversation about
13 that, about those issues. I think there was an ongoing
14 question about if there was need for more staff. But I
15 don't -- I don't recall that there were concerns raised
16 other than what came about with Bertha.

17 Q (BY MS. CLEMENT): Didn't Bertha tell you that
18 she had serious concerns about the med techs passing
19 medication or administering medication to the residents?

20 MR. CORDOVA: Argumentative.

21 A No, what I recalled was that -- and I thought it
22 was Bertha, and I just could be forgetting, but that's
23 when it was discovered that the insulin was being drawn
24 up by the med techs. That was the concern that I was
25 made aware of.

1 Q (BY MS. CLEMENT): How were you made aware of
2 the fact that med techs were drawing the insulin for the
3 residents?

4 MR. CORDOVA: Asked and answered.

5 A I don't remember specifically how it came to me.
6 I don't remember if it was discovered during the audit
7 or if it was discovered just prior to. So I don't
8 remember who specifically told me that.

9 Q (BY MS. CLEMENT): Did Bertha Bell -- strike
10 that.

11 Didn't Bertha Bell tell you that she thought the
12 facility was understaffed with caregivers and med techs?

13 MR. CORDOVA: Asked and answered.

14 A I don't remember a conversation with Bertha.
15 She may have, but I really don't remember a conversation
16 with her about that.

17 Q (BY MS. CLEMENT): And didn't Peggy Stevenson
18 also tell you that she was very concerned that there was
19 inadequate staffing by both caregivers and med techs?

20 MR. CORDOVA: Asked and answered.

21 MS. WELLS: It's compound. It's vague and it's
22 ambiguous.

23 Q (BY MS. CLEMENT): Okay. I'll break it down.
24 Didn't Peggy Stevenson tell you that she thought there
25 was insufficient caregivers in place or resident

1 assistants?

2 A And I think I answered this before. I don't
3 remember that conversation. I don't remember her saying
4 that.

5 Q Didn't Peggy Stevenson tell you that she had
6 serious concerns about the med techs administering
7 medication to the resident?

8 A I don't remember having that conversation with
9 Peggy.

10 Q Didn't Peggy tell you she was concerned there
11 was insufficient number of trained med techs to
12 administer medications to the resident?

13 MR. CORDOVA: Asked and answered.

14 A I don't remember these conversations.

15 Q (BY MS. CLEMENT): Didn't Peggy tell you that
16 she did not have the time to adequately train the staff
17 that were passing medications pursuant to the state and
18 Emeritus' requirements?

19 A I don't remember that.

20 Q Do you recall Peggy telling you that she had
21 concerns that she was not able to train the staff
22 pursuant to state and Emeritus guidelines?

23 MR. CORDOVA: Asked and answered.

24 A No.

25 Q (BY MS. CLEMENT): Do you recall Peggy telling

1 you that she had not been adequately trained by Emeritus
2 to perform the job duties as set forth in her job
3 description?

4 MS. WELLS: Vague and ambiguous.

5 A No, and I remember this from last time. I don't
6 remember that conversation.

7 Q (BY MS. CLEMENT): Would you agree that it is
8 very risky to put dementia residents into a facility
9 where the staff have not had the required training?

10 MR. CORDOVA: Incomplete hypothetical.

11 MS. WELLS: Vague and ambiguous. Lacks
12 foundation. Join.

13 A Yes.

14 Q (BY MS. CLEMENT): Would you agree that it is
15 very risky to put dementia residents into a facility
16 that does that not have adequate staff to meet their
17 needs?

18 MR. CORDOVA: Incomplete hypothetical.

19 MS. WELLS: Same objections.

20 A Yes.

21 Q (BY MS. CLEMENT): Would you agree it is very
22 risky to put dementia residents into a facility where on
23 the overnight shift, there is only one person to care
24 for them for up to 17 residents?

25 MS. WELLS: Lacks foundation. Assumes facts and

1 it's an incomplete hypothetical.

2 MR. CORDOVA: Join.

3 A Yes.

4 Q (BY MS. CLEMENT): What was your understanding
5 of, "Our family is committed to yours," the Emeritus
6 brand?

7 A It speaks for itself. I don't know what to say
8 about it. It was the brand and it was -- I mean, I've
9 just never been asked that. I don't know how to answer
10 that.

11 Q Was it your understanding that the Emeritus
12 brand, "Our family is committed to yours," meant that
13 Emeritus was going to treat each resident as if they
14 were their own family member?

15 A That sounds appropriate.

16 Q Would you have felt comfortable putting your
17 mother in the memory care unit at Emeritus if she
18 suffered from middle- to late-stage dementia?

19 MR. CORDOVA: Incomplete hypothetical. Calls
20 for speculation.

21 MS. WELLS: Join.

22 A Very, very hypothetical. But I felt very
23 comfortable with our community.

24 Q (BY MS. CLEMENT): If your mother suffered from
25 dementia and she needed assistance in all activities of

1 daily living, would you have felt comfortable putting
2 her in the memory care unit?

3 MR. CORDOVA: Incomplete hypothetical. Calls
4 for speculation.

5 A As I sit here today, yes.

6 Q (BY MS. CLEMENT): Would you have felt
7 comfortable with your mother suffering from dementia
8 being in a memory care unit with 16 other residents when
9 there was only one person on staff to care for them
10 overnight?

11 MR. CORDOVA: Misstates prior testimony.

12 MS. WELLS: It lacks foundation. It's an
13 incomplete hypothetical.

14 MR. CORDOVA: Join.

15 A I don't remember staffing, but as I sit here
16 today, you know, it's hard to say hypothetically where I
17 would have my mother be. But I didn't have a concern
18 about it.

19 Q (BY MS. CLEMENT): Did you feel there was
20 dysfunction in the way Emeritus corporate mandated your
21 building to be run in terms of the budget that they
22 provided to you?

23 MR. CORDOVA: Assumes facts, lacks foundation.

24 A How do you mean dysfunction?

25 Q (BY MS. CLEMENT): That it wasn't -- that the

1 building wasn't functioning as it should be, that it was
2 dysfunctional.

3 A I think it could have been better. I don't have
4 anything to gauge that on.

5 Q Is that because you didn't have experience as an
6 executive director administrator before coming to
7 Emerald Hills?

8 MR. CORDOVA: Argumentative.

9 MS. WELLS: Join.

10 A It's possible.

11 Q (BY MS. CLEMENT): Can you turn to page 1165 of
12 the Exhibit 84, the big resident event tracking sheets.
13 The date at the top is August 14 on the far right.
14 You'll see that if you go over there. I know that type
15 is really tiny on the bottom with the date over the page
16 numbers.

17 Do you recall in August of 2008 that there were
18 some resident-on-resident assaults happening in the
19 memory care unit?

20 MR. CORDOVA: Vague and ambiguous.

21 A I don't remember a specific date, but there may
22 have been a resident-on-resident hitting.

23 Q (BY MS. CLEMENT): Do you remember notifying
24 Budgie Amparo, Lisa Hulse and Doris Marshall about an
25 episode that occurred on Saturday, August 23rd, 2008,

1 where residents were assaulting each other over a period
2 of two hours in the memory care unit?

3 MS. WELLS: It's compound. Lacks foundation.

4 A I don't remember specifically, but the process
5 would have been to complete the event report and send it
6 to them. And what it says here is that they were
7 e-mailed, but I don't remember the event.

8 Q (BY MS. CLEMENT): Do you remember anyone from
9 Emeritus corporate advising you that additional training
10 needed to be in place in -- for the staff in the memory
11 care unit as a result of the resident assaults that
12 occurred on Saturday, August 23rd, 2008?

13 A I don't remember.

14 Q Do you remember Emeritus corporate providing you
15 with additional budget for more staff in the memory care
16 unit after the assaults occurred on August 23rd, 2008?

17 A Not that I remember.

18 Q When reporting incidents to the Department of
19 Social Services where a resident had had a fall with
20 injury, would it be your practice to notify the state if
21 the resident had had a pattern of falling?

22 MR. CORDOVA: Incomplete hypothetical.

23 A It would -- I would think it would be in the
24 narrative of the actual report.

25 Q (BY MS. CLEMENT): And what for you would be --

1 strike that.

2 How many falls would a resident have to
3 experience in the facility with injury before you would
4 recommend that they move to a higher level of care?

5 MS. WELLS: Lacks foundation. It's an
6 incomplete hypothetical.

7 MR. CORDOVA: Join.

8 MS. WELLS: Calls for speculation.

9 A I'm not sure. I think that would be case by
10 case, and I would have reported that to my regional
11 team. And I think it might depend what was happening
12 prior to the fall and what the results of the fall was.
13 But I would think, as far as recommending, I would
14 present the case of this is what's going on, and then it
15 would be discussed among us.

16 Q (BY MS. CLEMENT): Was it your understanding and
17 training when you were administrator at Emeritus that a
18 resident having repeated falls is an indicator of high
19 acuity?

20 A It could be.

21 Q And in your prior job when you worked at
22 Sunrise, did you ever have any responsibility for doing
23 event reporting or unusual incident reporting to the
24 state?

25 A In the absence of the executive director, I may

1 have done them.

2 Q Do you have any recollection of actually having
3 any experience doing them before you came to Emerald
4 Hills?

5 A I can't say for sure, but I had seen them
6 before. I think that I did, but I couldn't tell you for
7 sure.

8 Q Can you turn to page 1166. Do you see midway on
9 the page a report for Joan Boice? It's the only one
10 that has the things not redacted.

11 A Oh, sorry. I didn't notice that.

12 Q There you go. It's all right.

13 A Yes.

14 Q Is there any indication that there was a
15 post-fall evaluation done for Joan in the resident event
16 report or the event tracking summary?

17 A There is not one mentioned.

18 Q One of the things you have been discussing today
19 is resident's level of care. And do you see on the
20 resident event tracking summaries, if you go to the very
21 first page, along the top, there is little categories
22 that tells you what is underneath each column. And just
23 about halfway across the page is level of care.

24 A Okay.

25 Q Do you see that?

1 A Yes.

2 Q And as you go through the pages, it looks like
3 that the level of care didn't start really getting
4 picked up until -- well, strike that.

5 It looks like level of care wasn't always used
6 in the tracking; is that correct?

7 A I don't see it here.

8 Q Okay. And would that mean the resident's level
9 of care?

10 A That's what I would expect from this.

11 MR. CORDOVA: Calls for speculation. I didn't
12 know that was a question.

13 Q (BY MS. CLEMENT): That's all right. And do you
14 know, was the level of care from what the number
15 system -- how high the numbers were for the level of
16 care?

17 A I don't remember.

18 Q Looks like as you get farther into your tenure
19 there, you -- the level of care starts picking up in
20 terms of them getting noticed at least by February of
21 2008, starts getting regularly written down, the level
22 of care. Do you see that?

23 A Yes.

24 Q Okay. Do you remember if someone from corporate
25 or regional asked you to please start writing down the

1 level of care for the residents?

2 A No, I don't remember that. But can I make an
3 observation?

4 Q Yes.

5 A I don't remember the date that Vigilant started,
6 but that may have prompted having the information in
7 here. But I'm not sure. Sorry. I shouldn't think out
8 loud.

9 MR. CORDOVA: Don't speculate.

10 Q (BY MS. CLEMENT): Will you turn to page 1171.
11 The date at the top is 12/23/08. Would the last
12 resident event report you would have done been the one
13 on 12/28/08 at 7:30 a.m.?

14 A I don't know if it was done by me but --

15 MR. CORDOVA: Don't speculate.

16 A I'm sorry. The question?

17 Q (BY MS. CLEMENT): Withdraw it. Do you see the
18 entry for the memory care resident on January 5th, 2009,
19 at 10:20 a.m.?

20 A Yes.

21 Q Okay. Did anyone make you aware that this
22 happened, that a resident of the memory care unit was
23 found on the ground with her walker under them and --
24 with blood and that they died in the ER upon arrival?

25 A No, this is after my departure date.

1 Q I am just wondering if Peggy or anyone told you
2 about what happened on January 5th when a resident in
3 the memory care unit had a fall and ended up dying in
4 the emergency room.

5 A No.

6 Q Was there a time period in your employment at
7 Emeritus where the resident assistants were not being
8 allowed to take a 30-minute lunch break?

9 MR. CORDOVA: Asked and answered.

10 A Not that I am aware of, no.

11 Q (BY MS. CLEMENT): Was there a time when the
12 lunch break was shorter than 30 minutes?

13 A It shouldn't have been. So not that I am aware
14 of, no.

15 Q I am going to show you Exhibit 9, the assisted
16 living employee schedule for November 2008.

17 MR. CORDOVA: Wait for a question.

18 Q (BY MS. CLEMENT): Do you see on the bottom
19 where it says, "Woo-hoo. 30 minute lunches are back"?

20 A Yes.

21 Q And what does that mean?

22 MS. WELLS: Calls for speculation.

23 A There was a period of time where they were
24 taking a 60-minute lunch.

25 Q (BY MS. CLEMENT): What was your understanding

1 as to why that was happening?

2 A Hour reduction for budget.

3 Q So corporate was making the caregivers clock out
4 for an hour in the last quarter of -- or excuse me.

5 Corporate was requiring caregivers and med techs
6 to clock out for an entire hour for a lunch break in
7 2008?

8 MS. WELLS: Assumes facts.

9 MR. CORDOVA: Join.

10 A I don't remember how long that was for, but that
11 was taking place. I just don't remember for how long.

12 Q (BY MS. CLEMENT): Okay. So corporate was
13 requiring caregivers and med techs to take -- clock out
14 for an entire hour as part of a budget cut?

15 A Yes.

16 MR. CORDOVA: Misstates testimony. Go ahead.

17 A Yes.

18 Q (BY MS. CLEMENT): And you don't remember how
19 long that took place, but that did take place sometime
20 in 2008 and ended sometime in November of 2008?

21 A I'm sorry. I didn't read the dates on it.

22 Q That's all right.

23 A Sometime prior to November and ended in November
24 of 2008.

25 Q Did your staff have complaints about the fact

1 they would have to come to work and be there and have to
2 clock out for an entire hour?

3 A Some of them did, yes.

4 Q Did you have staff complain they weren't paid
5 for their overtime?

6 A Yes.

7 Q Did you have staff while you worked at Emeritus
8 who sued Emeritus through the Labor Board to get their
9 overtime paid?

10 A Not that I was aware of, no.

11 Q Did you advocate for your staff with corporate
12 that they paid for their overtime when they worked it?

13 A I don't remember specifically. I remember
14 advocating why we would need overtime. But case by
15 case, I don't remember that.

16 Q Because of -- strike that.

17 Were there times in the -- strike that. Sorry.

18 Because there was too few staff in the building
19 to care for the residents, were staff members who were
20 not caregivers or med techs required to do caregiving
21 jobs?

22 MR. CORDOVA: Misstates prior testimony.

23 Assumes facts.

24 MS. WELLS: It's vague and ambiguous, lacks
25 foundation.

1 A I don't remember who and when, but there were
2 times when staff would be cross trained to work in
3 caregiving. And I do recall -- although I don't
4 remember if it was moving to caregiving or away from
5 caregiving, one of the staff moving from housekeeping to
6 caregiving or the other way around.

7 Q (BY MS. CLEMENT): If staff were put -- taken
8 from the housekeeping department and put on the floor to
9 work as caregivers, they would still have to have the
10 required state training before they provided the care,
11 correct?

12 A Correct.

13 Q And what did you do to ensure that the
14 housekeeping staff that worked on the floor as
15 caregivers had the required state training?

16 MS. WELLS: Assumes facts, lacks foundation.

17 MR. CORDOVA: Join.

18 A I don't remember if it was moving from
19 caregiving to housekeeping or housekeeping to
20 caregiving.

21 Q (BY MS. CLEMENT): Isn't it true that there were
22 housekeepers that were asked to do caregiving jobs
23 without the required legal training?

24 A I don't remember that.

25 Q Did you ever have concerns there was inadequate

1 budget allocated for activities for the residents,
2 particularly in the memory care unit?

3 MR. CORDOVA: Vague and ambiguous.

4 MS. WELLS: Compound.

5 A I don't remember. I don't remember specific
6 concerns about budget and activities.

7 Q (BY MS. CLEMENT): How -- strike that.

8 Who was supposed to be providing activities for
9 the residents in the memory care unit on a day-to-day
10 basis?

11 A Memory care director and the resident
12 assistants.

13 Q What training did the memory care director have
14 on the appropriate activities for residents in all
15 stages of dementia?

16 A Again, part of the Emeritus training -- I'm
17 sorry. I can't remember what it was called.

18 Q Join Their Journey?

19 A Yes. As well as regional training that I
20 believe was done for managers to include the memory care
21 directors specific to programming.

22 Q Do you know how Alicia Parga scored on the
23 audits for the memory care unit?

24 A I don't remember.

25 Q Do you remember Crystal Roberts coming to the

1 facility and doing any training?

2 A I do. And I believe she did so at my request.

3 Q And why did you request Crystal Roberts come to
4 the facility and do training in the memory care unit?

5 A From what I can remember, it seemed like we
6 could use some suggestions and assistance with that.

7 Q Did Crystal Roberts ever tell you that in
8 reviewing the in-service manual, she didn't find any of
9 the monthly training modules that were supposed to be
10 done for dementia training for the entire year of 2008,
11 except for one Join Their Journey training in
12 mid-December of 2008?

13 MR. CORDOVA: Argumentative.

14 MS. WELLS: Lacks foundation. It's vague and
15 ambiguous as to time.

16 A I don't remember Crystal saying that.

17 Q (BY MS. CLEMENT): Did you know it was the
18 expectation by Emeritus that you, as the executive
19 director, would do at least one in-service a month on
20 the topics from the Join Their Journey training book?

21 A I don't remember that it was specific to Join
22 Their Journey. But I did present an in-service at the
23 monthly staff meeting. I just don't remember every
24 topic.

25 Q Who at Emeritus is responsible for making sure

1 that what Emeritus was promising to families and
2 residents would happen in the memory care neighborhood
3 was actually happening?

4 MS. WELLS: It's vague and ambiguous, overly
5 broad.

6 A That would be me. And I would expect my
7 department heads to do their job and report to me if it
8 wasn't being done.

9 Q (BY MS. CLEMENT): Do you remember telling
10 memory care neighborhood families that you had concerns
11 about Alicia Parga's ability to carry out the job duties
12 of the memory care director?

13 MR. CORDOVA: Objection, asked and answered.

14 A No, I don't remember that.

15 MR. CORDOVA: Want to take a quick break?

16 THE VIDEOGRAPHER: Going off the record at
17 4:28 p.m.

18 (Whereupon a recess taken.)

19 Q (BY THE VIDEOGRAPHER): We are back on the
20 record, 4:45 p.m.

21 Q (BY MS. CLEMENT): I'm going to show you now
22 Exhibit 157. And this is in regard to resident
23 move-outs, and it's a color copy dated February 28,
24 2008. It's an e-mail from Lisa Hulse to all the western
25 division -- looks like people from region one and then

1 cc'd on some folks that were -- or regional folks, as
2 well. Excuse me. I hate that word "folks." I can't
3 believe I just used it.

4 Take a minute to read that and there is a second
5 page to it right behind it also in color.

6 Let me know when you have had a chance to review
7 those two pages.

8 A I'm done.

9 Q Okay. Going back to this issue of you feeling
10 pressure to prevent residents from moving out, is this
11 e-mail from Ms. Hulse that you received in February of
12 2008, is this indicative of the type of thing that --
13 where you were getting pressure by corporate to not let
14 residents move out of the facility?

15 A Yes, but this looks like it's discussing
16 something that's already happened. But, yes, to recap
17 reasons why, performance in past months, yes.

18 Q Are you familiar with the phrase used at
19 Emeritus, "Keep the back door closed," meaning that once
20 the residents were in the facility, don't let them move
21 out or go to a higher level of care?

22 A Yes. I haven't heard that for years, but yes.

23 Q And was that a term that Lisa Hulse used when
24 she talked to you about these move-out analyses that she
25 would do of your facility and the other executive

1 directors' facilities?

2 A I expect so. I can't remember specifically
3 seeing her say it. But it was used by everyone at
4 Emeritus.

5 Q If you go back one page in Exhibit 157, do you
6 see the e-mail that you wrote to Rhonda Castleberg, Lisa
7 Hulse, Doris Marshall and Melissa Malek regarding a
8 resident in the memory care unit who left the facility
9 on a Welfare and Institutions Code Section 5150 to a
10 psych hospital?

11 A Yes.

12 Q Was it your understanding that Emeritus was not
13 supposed to have residents in the facility who had
14 psychiatric diagnoses other than dementia?

15 MS. CLEMENT: Assumes facts.

16 MR. CORDOVA: Join.

17 A I think I remember that. I just don't remember
18 talking about it.

19 Q Okay. Do you remember this incident where one
20 of the memory care unit residents was sent out of the
21 facility to a psychiatric hospital on a 5150 after
22 hitting several staff members and a resident and then
23 trying to strangle herself with her hands?

24 MS. WELLS: Assumes facts and mischaracterizes
25 the document.

1 MR. CORDOVA: Join.

2 A I don't remember the incident that I am
3 e-mailing about.

4 Q (BY MS. CLEMENT): If you turn back one page
5 earlier, do you see this document that is called Vigilant
6 to E site level of care comparison?

7 A Yes.

8 Q What is your understanding of what E site was?

9 A I don't remember E site.

10 Q Okay. If you go back two-pages from that, you
11 will see the same level of care comparison for Emerald
12 Hills. Do you see that?

13 A Yes.

14 Q Do you remember what the E site charge was
15 that's listed here to the right of the points Vigilant
16 charge, and then there is E site charge?

17 A I don't remember what E site was.

18 Q Okay. Do you remember any discussions you had
19 with Lisa Hulse where she advised you that she wanted
20 you to reevaluate residents and increase their level of
21 care charges in order to increase your revenue?

22 MS. WELLS: Lacks foundation.

23 A I don't remember a specific conversation, but
24 having the assessments be accurate would be to have
25 accurate assessments but also to accurately assign a

1 level of care.

2 Q (BY MS. CLEMENT): And level of care meant --
3 strike that.

4 Level of care translated to increased fees for
5 the residents?

6 A It may if that had gone up, yes.

7 Q In order to move residents into the facility,
8 were you authorized to offer deals to residents that
9 were less than the stated price for move-in community
10 fees and other discounts so that -- in order to get the
11 residents in?

12 MR. CORDOVA: Compound.

13 Q (BY MS. CLEMENT): I'll rephrase. Were you
14 authorized as the executive director without going to
15 someone at regional level to make deals for the
16 potential residents to get them into the building?

17 A I don't remember what they were, but there
18 was -- and I think they refer to it as a toolbox of
19 different options to utilize. I don't remember
20 specifically what they were. But outside of that, it
21 would then need approval.

22 Q And this toolbox -- was this a toolbox of deals
23 you could offer residents who were thinking about coming
24 to Emerald Hills?

25 A Yes. I don't know that I would have said deals

1 but some type of either a discount on a community fee,
2 some type of a discount.

3 Q Were you required to hit a budgeted number of
4 move-ins each month before the last day of the month?

5 A Yes.

6 Q Do you think that's why you signed up Mrs. Boice
7 on August 29, 2008, before you or anyone in the facility
8 had seen her, so that you could get that move-in
9 recorded to corporate?

10 MR. CORDOVA: Misstates prior testimony. Calls
11 for speculation.

12 MS. WELLS: Lacks foundation and -- sorry
13 blanked out. Sorry. We talked over each other. Kind
14 of threw me.

15 MR. CORDOVA: Sorry.

16 A I don't remember why it was signed early.

17 Q (BY MS. CLEMENT): Was that something that you
18 felt pressure to do to get the move-ins budget each
19 month, in other words get the residents signed up and
20 get the money in the door before the end of the month so
21 you could make your budgeted move-ins for the month?

22 MS. WELLS: Lacks foundation. Assumes facts.
23 It's argumentative.

24 A I do remember that there was pressure. In this
25 specific case, I don't remember that that prompted an

1 early signing. I just -- I don't remember what prompted
2 it.

3 Q (BY MS. CLEMENT): Did you ever sign up
4 residents before anyone at the facility saw them,
5 because you felt pressure to meet your budget for
6 move-ins for the month?

7 MS. WELLS: Lacks foundation.

8 A I don't remember doing that. I don't remember
9 that that would be done because of pressure. I just --
10 but I don't remember.

11 Q (BY MS. CLEMENT): Can you think of any other
12 reason why you would move in residents on paper with
13 signing the admission agreement and collecting the fees
14 before anyone in the facility saw them other than
15 pressure from corporate to meet your monthly move-in
16 quotas?

17 MS. WELLS: Lacks foundation. Calls for
18 speculation.

19 A I mean, as I sit here today, I am having trouble
20 thinking of why that would be. There could be
21 availability of family. As I sit here today, I can't
22 remember exactly why. But I don't believe that was the
23 only instance where it was done. So I don't remember
24 every reason for it.

25 Q (BY MS. CLEMENT): So in other words, there were

1 other times where you signed up residents and moved them
2 in on paper before -- and collected the initial fees
3 before the resident had been assessed by someone at the
4 facility, correct?

5 MS. WELLS: Assumes facts.

6 MR. CORDOVA: Join.

7 A I believe so, but I don't -- I just don't
8 remember. It's possible.

9 Q (BY MS. CLEMENT): Was it your understanding
10 that the Vigilant program had a labor component that
11 would tell you exactly how many full-time staff you
12 needed on each shift?

13 A I don't remember that.

14 Q Why don't you turn to -- let's see, Exhibit 158.
15 And it's the ninth page in, count pages. And I am going
16 to ask you to take a moment to read pages nine, ten, 11
17 and 12. This is -- we can go off the record while you
18 do that.

19 THE VIDEOGRAPHER: Going off the record at 5:00.

20 (Whereupon a recess taken.)

21 THE VIDEOGRAPHER: Back on the record, 5:06 p.m.

22 Q (BY MS. CLEMENT): Did you receive a copy of
23 Mr. Fleming's e-mail of January 22nd, 2008?

24 A This?

25 Q Yes.

1 A On January -- it was e-mailed to me.

2 Q Okay. And did the -- did the e-mail come to you
3 from someone at Emeritus corporate?

4 A Hard for me to tell. They blacked it out. It
5 looks like it did. It looks like it came from something
6 called Emerald Hills inquiry, which would be -- well, I
7 would be guessing.

8 MR. CORDOVA: Don't guess.

9 Q (BY MS. CLEMENT): Did you forward the e-mail
10 from Mr. Fleming to Lisa Hulse?

11 A Yes.

12 Q At the time of this e-mail from Mr. Fleming, you
13 didn't have a nurse working in the building at that
14 time, correct?

15 A I don't remember when Bertha left. I don't
16 think we've ever really figured out the date that she
17 left.

18 Q Well, according to -- I think Emeritus got her
19 working their full-time from 2005 to 2009. So we know
20 that's not right, correct?

21 A No.

22 MR. CORDOVA: Calls for speculation.

23 Q (BY MS. CLEMENT): Why did you tell Lisa Hulse
24 she would be drinking wine tonight when you forwarded
25 this e-mail to her from Mr. Fleming?

1 A Well, first of all, wine was a common joke,
2 because everyone that worked there loved wine. So we
3 talked about it a lot and because it was upsetting.

4 Q Okay.

5 A And I do recall that she and I had a phone
6 conversation, as well, probably preceding this, because
7 it looks like I didn't give much explanation about it in
8 sending it to her.

9 Q Okay. So you believe that you spoke with Lisa
10 Hulse and told her about the content of Mr. Fleming's
11 e-mail before you sent it to her?

12 A I actually remember speaking with her about it.

13 Q Okay. What do you remember telling Lisa Hulse
14 about Mr. Fleming's e-mail?

15 A I don't remember the details. I remember it,
16 again, the same way I remember the meeting shortly
17 thereafter, because it was very upsetting and very
18 emotional. And so I remember describing it to her and
19 then sending it to her.

20 Q Were there any of Mr. Fleming's concerns that he
21 raised in his multiple-page e-mail that you disagreed
22 with?

23 MR. CORDOVA: Vague and ambiguous.

24 MS. WELLS: It's overly broad.

25 A I don't know that I disagreed with them. I took

1 everything very much to heart and very seriously and
2 felt that this was somebody's perception and, therefore,
3 that needs to be taken very seriously, which is why we
4 then met with both resident and his son to discuss the
5 matters that he raised. What I did disagree with,
6 however, was the timeframe that he laid out, because --
7 and actually, this came out during the meeting with his
8 father -- that a month had not passed and that I was not
9 aware of a request.

10 What the resident and I had discussed was his
11 requests, concerns and/or complaints about the food and
12 my wanting to sit and meet with him and the dining
13 services director. That delay was not a month. What
14 came out during our meeting was that the son was under
15 the impression his father had actually asked for that
16 sooner.

17 And, in fact, what I recall was that when Art
18 requested that, that request came to the concierge and
19 that I immediately, so either same day or next morning,
20 went up to his room to respond to him regarding his
21 request for a meeting. And so, yes, I disagreed with
22 the timeframe laid out in here and that I wasn't being
23 responsive to him or his father.

24 Q Okay. Had you ever met with Ed Fleming before
25 the meeting that you had with Mr. Fleming and Catherine

1 Ratelle and Ed Fleming's father, Art?

2 A I don't remember a formal meeting, but I had
3 certainly talked with him before. And we had a good
4 rapport.

5 Q Other than the timeframe from when Art Fleming
6 first requested a meeting with you and when it actually
7 took place, was there anything else in the e-mail that
8 you disagreed with?

9 A You know, as I sit here today, I don't remember
10 agreeing or disagreeing. I think that what I can
11 remember is each and every one of these was so serious
12 to me, and I wasn't sure where some of them were coming
13 from. Some of them were more easily explained than
14 others. The size of it was surprising to me. So, you
15 know, some of them may have been accurate.

16 I don't know there was only grape jelly on the
17 table. There may have been. I don't know about the
18 toilet paper. There may have been on occasion. I
19 don't -- I wasn't sure. But I felt that each and every
20 one of those really -- and any concern ever brought up
21 by a family were taken seriously.

22 Q How about the chronic staff shortage that
23 Mr. Fleming outlined, which is the sixth bullet point
24 down under his review of sampling of resident
25 complaints?

1 MS. WELLS: Vague and ambiguous.

2 A I see it. It says especially in the kitchen.
3 That may have been true. I don't remember. I don't
4 remember the staffing at the time. I just -- don't
5 remember the context of these.

6 Q (BY MS. CLEMENT): Well, slow response often
7 exceeding 15 minutes after the emergency bell rung for
8 bathroom assistance, that wouldn't be kitchen staff,
9 correct?

10 A Correct.

11 Q And emergency bell answering unit sometimes are
12 not working, that was a serious concern, wasn't it?

13 A Yes.

14 Q And marketing for more residents when management
15 and staff were unable to fulfill obligations to current
16 residents, that was a serious concern?

17 A Yes.

18 Q And all of these concerns were gone over with
19 Catherine Ratelle and yourself and with Mr. Fleming and
20 his dad, Art?

21 A Yes. Again, the meeting was very upsetting in
22 some instances, so I don't remember all the details.
23 But we had the letter present so that we could address
24 his concerns.

25 Q Okay. And did you review the resident meeting

1 minutes that detailed complaints that included the
2 complaints listed in Mr. Fleming's letter?

3 MS. WELLS: Assumes facts, lacks foundation.

4 MR. CORDOVA: Join.

5 A I did. And, in fact -- and I don't remember if
6 it was after this or in response to this, but the
7 resident meetings, they were called resident council,
8 you had to be an invited guest to come. And so we then
9 developed a standing invitation for me so that I would
10 attend it each month and give an update and hear any
11 concerns, any questions.

12 But prior to that, yes, I did review the
13 minutes.

14 Q (BY MS. CLEMENT): Okay. And were the
15 complaints that Mr. Fleming outlined here consistent
16 with things that you had read previously in the resident
17 council meeting minutes?

18 A I don't remember the content of them. If any
19 concerns were brought up, they would be addressed or I
20 would come to the next resident council to answer
21 questions. Again, I don't remember when that became a
22 regular occurrence.

23 Q Okay. Do you remember telling residents at the
24 resident council meetings that corporate budget
25 precluded you from adding additional staff to the

1 facility?

2 A I don't remember that I would put it that way,
3 but I would be asked by residents how I budgeted. And
4 so in some way or form, I would explain that the budget
5 was set from corporate and that we worked within it.

6 Q Okay. Did you let the residents know that you
7 didn't have the ability to increase the staffing budget?

8 A I may have.

9 Q Can you turn -- let me tell you how many pages
10 forward you need to go. Okay. So it's page 23 of this
11 exhibit. So you need to go forward. The other
12 direction.

13 A Oh.

14 Q That's all right. It's an e-mail of March 19,
15 2008, from you to Corlis Tillman and cc, Lisa Hulse.

16 A What was the date again?

17 Q March 19, 2008, 7:27 a.m.

18 A Okay.

19 Q That's it. Yes. Take a minute to read that.

20 A Okay.

21 Q Did you -- do you remember receiving just the
22 gist of this plan of correction for Emerald Hills from
23 Corlis Tillman?

24 A I don't remember receiving it, no. But here it
25 is.

1 Q Okay. Peggy Stevenson started at Emerald Hills
2 on March 24th, 2008. So when this plan of correction
3 was given to you by Corlis Tillman, did you actually
4 have the nurse staff in place to carry out this plan of
5 correction to conduct elopement assessments on all the
6 residents, reassess the residents for possible placement
7 in secured units, revise the individual service plans,
8 review all medical charts to ensure residents complete
9 unsupervised disclosure form, identify all residents in
10 the assisted living side with diagnosis of dementia or
11 impaired memory and conduct elopement assessment,
12 in-service staff on elopement, et cetera?

13 A Was the question did I have time?

14 Q Did you have time to do all these plan of
15 corrections with no nurse in your building?

16 A I don't remember what was going on on Wednesday
17 March 19, 2008. But as I sit here today, I would say
18 no.

19 Q Okay. We're going to change gears. Try to get
20 you out of here pretty quickly. I'm going to show you
21 Exhibit 325. Did we put that back in here?

22 MS. CLEMENT: Here you go. And this was
23 produced at Mr. Amparo's deposition, and it was the
24 pharmacy, which is one of the two parts of the
25 comprehensive process review they could find for 2007.

1 It was dated August -- excuse me -- November 20, 2007.
2 And I know it has these weird font on it, but that's the
3 way they gave it to us.

4 So we have been told that on these audits or
5 CPRs, that full compliance was five points, partial
6 compliance was three points and no compliance was zero
7 points. Is that basically your recollection of how
8 these audits worked, that someone would come through and
9 conduct the audit and give points of either zero, three
10 or five?

11 A It's very vague. I do remember that -- I
12 wouldn't have been able to restate that, but that sounds
13 familiar.

14 Q Okay. And just take a minute to go through each
15 page of the pharmacy audit. And then I am going to have
16 a question for you. I am just asking you to focus on
17 what points Emeritus received from this pharmacy audit
18 of November 20, 2007.

19 A Okay.

20 Q Did you see as you looked through the medication
21 administration compliance part of the audit that with
22 the exception of two out of a total of 58 possible
23 areas -- I added them up -- Emeritus was in either
24 noncompliance or only partial compliance?

25 A I do see that.

1 Q And do you see that in the audit, they found
2 that there were -- there was no compliance with the med
3 techs initials or vital signs on the medication
4 administration record that was the first item?

5 A Yes.

6 Q And that there was no compliance with the vital
7 signs being the acceptable range?

8 A Yes.

9 Q And that there was only partial compliance with
10 medications being delivered with the right medication
11 route, time and dose?

12 A Yes.

13 MR. CORDOVA: Let the record reflect the witness
14 is reading from a document.

15 Q (BY MS. CLEMENT): And that there was no
16 compliance with the p.r.n. or as needed orders being
17 specific?

18 A Yes.

19 Q And there was no compliance when p.r.n.
20 medications were given that the reason would be
21 documented on the back of the medication administration
22 record?

23 A Yes.

24 Q And that the no compliance with the narcotic
25 count being accurate?

1 A Yes.

2 Q And that the pharmacy auditor found that the
3 staff was not counting at shift change the resident
4 narcotics?

5 A Yes.

6 Q Do you see on page three of the audit that under
7 medication labels are not altered, that they found no
8 compliance and that the insulin was -- did not have a
9 label but instead had a Post-It note?

10 A I do.

11 Q Was that part of the incident with Bertha Bell,
12 or was that a different incident regarding insulin?

13 MR. CORDOVA: Vague and ambiguous.

14 Q (BY MS. CLEMENT): Are you looking for the date?

15 A Um-hum.

16 Q It's November 20, 2007.

17 A And with regard to the incident with Bertha
18 Bell, which incident are you referring to? Her finding
19 the problems with the insulin or her departing as a
20 result of not handling the situation properly?

21 Q Okay. My understanding from you is that the
22 insulin incident with Bertha Bell was that she was
23 letting med techs draw and perhaps administer insulin to
24 residents.

25 MR. CORDOVA: Misstates prior testimony.

1 A What I knew about was the drawing up. I
2 couldn't say for sure about the administering. But I
3 thought that I said -- and if I didn't I will say now --
4 but I thought that Bertha was part of discovering
5 that -- discovering that issue. It was whether or not
6 she corrected it and was honest about it months later.

7 Q (BY MS. CLEMENT): Okay. So in reviewing the
8 medication or the pharmacy audit for Emerald Hills,
9 would you say that, in general, Emerald Hills failed
10 this audit?

11 MR. CORDOVA: Compound.

12 A I don't know what the failure guidelines are. I
13 would hope to see full compliance.

14 Q (BY MS. CLEMENT): Okay. Well, by my
15 calculation, they only got two of 58 that they were in
16 full compliance. So that's like .03 times they were in
17 compliance of the total. Would you call that failing?

18 MR. CORDOVA: Calls for speculation.

19 A I would call it failing. I don't know what
20 Emeritus called it.

21 Q (BY MS. CLEMENT): Okay. So you say that --
22 strike that.

23 Is it your understanding that after this
24 comprehensive process review in November of 2007 that
25 the issues regarding medication administration for the

1 residents was all resolved and they weren't having any
2 problems anymore?

3 MR. CORDOVA: Misstates prior testimony.

4 MS. WELLS: Lacks foundation. Overly broad.

5 A My understanding was that it took time to --
6 first of all to move the med room and to put systems in
7 place to correct. But the second audit that we don't
8 have the information for shows that our med scores were
9 drastically improved.

10 Q (BY MS. CLEMENT): Would you have expected by
11 September of 2008 when Mrs. Boice became a resident that
12 the problems with the delivery of medication to
13 residents would have been resolved?

14 A Yes.

15 Q And do you have any explanation as to why
16 Mrs. Boice's medications weren't administered as ordered
17 by the physician?

18 MS. WELLS: Lacks foundation. Assumes facts.

19 MR. CORDOVA: Join.

20 A I wasn't aware that they weren't, so, no.

21 Q (BY MS. CLEMENT): Is so if, for example,
22 Mrs. Boice had repeated instances of not receiving her
23 morphine for her compression fracture in her back, is
24 that something that you would have expected to report to
25 the Department of Social Services.

1 MR. CORDOVA: Incomplete hypothetical.

2 MS. WELLS: Lacks foundation. Assumes facts.
3 Calls for speculation.

4 A If she had missed her medication, then, yes,
5 that would be reported as a medication error.

6 Q (BY MS. CLEMENT): Particularly if it was a
7 medication of Class II narcotic like morphine, correct?

8 A I don't know that it would be specific to just a
9 Class II. I think any medication that was not given, or
10 missed, after a certain period of time would be
11 considered a medication error.

12 Q How about did you think that by the time
13 Mrs. Boice came to the facility that the staff would be
14 consistently doing narcotic counts on each shift for the
15 residents?

16 A Yes.

17 Q Do you have an explanation as to why that wasn't
18 always happening during Mrs. Boice's residency?

19 MS. WELLS: Assumes facts. Lacks foundation.
20 Calls for speculation.

21 MR. CORDOVA: Join.

22 A As I sit here today, I don't, because I don't
23 remember that they weren't. I don't remember knowing
24 that or hearing that.

25 Q (BY MS. CLEMENT): Did you feel that you had the

1 training and experience necessary to carry out all the
2 job duties that Emeritus listed for you in their job
3 description?

4 MR. CORDOVA: Asked and answered.

5 MS. WELLS: Calls for speculation. It's overly
6 broad and lacks foundation.

7 A I'm can only answer as I sit her today. I can't
8 remember exactly how I felt. Looking back, more
9 training would certainly be helpful.

10 Q (BY MS. CLEMENT): Would more supervision have
11 been helpful, as well, in terms of having more support
12 from corporate?

13 A Yes.

14 Q Do you remember having a meeting with
15 Mrs. Boice's family in November of 2008?

16 A I don't. I may have, but I don't remember it.
17 I met with so many families. So I'm sorry. I just
18 don't remember.

19 Q (BY MS. CLEMENT): That's okay. I don't think
20 we are going to have enough tape to do this whole
21 section. Do you want to just change it now?

22 THE VIDEOGRAPHER: Going off the record at
23 5:35 p.m. This ends tape number four of volume number
24 two of the deposition of Nancy Cordova.

25 (Whereupon a recess taken.)

1 THE VIDEOGRAPHER: We are on the record at
2 5:37 p.m. The date is August 13, 2012. This begins
3 tape number five of volume number two of the deposition
4 of Nancy Cordova.

5 Q (BY MS. CLEMENT): Can you turn to
6 Exhibit number -- sorry about that.

7 I'm going to hand you page 54 of Exhibit 2,
8 Mrs. Boice's record from Emerald Hills, and ask you to
9 read pages 54 to 61. Some of them are repeats because
10 it's an e-mail chain. You know how that works. So just
11 turn it off.

12 THE VIDEOGRAPHER: Going off the record at
13 5:39 p.m.

14 (Whereupon a recess taken.)

15 THE VIDEOGRAPHER: Back on the record, 5:47 p.m.

16 Q (BY MS. CLEMENT): Do you -- in reading these
17 e-mails between yourself, Kathleen Boice and Peggy
18 Stevenson in November of 2008, does that refresh your
19 recollection about having a meeting with Eric and
20 Kathleen Boice regarding their mother?

21 A I don't remember having a meeting. But it
22 certainly speaks to us having done so.

23 Q Okay. Do you remember any of the concerns that
24 the family raised regarding Mrs. Boice's care and
25 treatment at the facility up to that point in time?

1 A I don't.

2 Q And did you assure Kathleen and Eric Boice that
3 you heard their concerns and expectations and that you
4 would be partners in their mom's care, Joan Boice?

5 A I believe that's what it says here in my -- one
6 of these e-mails to them.

7 Q I think it's on page 60.

8 A I'm sorry. The question?

9 Q Yes. Did you reassure Eric and Kathleen Boice
10 that you had heard their concerns and expectations and
11 that you were happy to be partners in their mother's
12 care?

13 A So it looks like I was -- I referred to being
14 glad we'd had the opportunity to meet regarding their
15 concerns and expectations and that I appreciated their
16 understanding and willingness to be partners in her
17 care. I encouraged them to share their feedback.

18 And then it looks like I went on to say I would
19 have Peggy update them on Kim and the home health --

20 (Court reporter asks for clarification.)

21 A Home health nurse visit.

22 Q And what do you recall about the status of the
23 pressure ulcer that you knew about that Mrs. Boice had
24 on November 18, 2008?

25 MR. CORDOVA: Objection. Asked and answered.

1 A I don't remember, but I mean seeing in here,
2 looks like we discussed something about it. And I
3 remember -- I remember saying that I had e-mailed with
4 the daughter-in-law, but I didn't remember the content
5 of it. So this is the first time seeing of it in a long
6 time. But it looks like we discussed the foot. And it
7 looks like there was a training conducted that I
8 oversaw. But I mean, I don't remember these. I just --
9 clear these discussions took place.

10 Q Did you suggest to Mrs. Boice's son and
11 daughter-in-law, Eric and Kathleen, that Mrs. Boice
12 could stay at the facility as long as she became
13 hospice, had an order for hospice?

14 MR. CORDOVA: Vague and ambiguous.

15 Q (BY MS. CLEMENT): I'll rephrase. Did you tell
16 Eric and Kathleen Boice that it was okay for Joan to
17 stay at Emerald Hills, as long as you got approval from
18 the state and your -- you were able to get a hospice
19 order for Mrs. Boice?

20 A I don't remember telling them that. I don't
21 remember meeting with them. There is a reference to
22 that topic in an e-mail. It looks like we were
23 attempting to, and it looks -- to get hospice. I'm
24 sorry.

25 And I'm trying to see. I don't believe it was I

1 who indicated that I had gotten approval from the state.
2 I certainly would have talked to the state. And I had a
3 great relationship with my LPA, so I certainly -- it's
4 very possible that I spoke with her about this.

5 I don't see that that's coming from me
6 confirming that I had spoken with the state. But I see
7 it mentioned. And I'm sorry. I think I lost the
8 question.

9 MR. CORDOVA: Yeah, just answer the question.

10 Q (BY MS. CLEMENT): Do you recall telling Eric
11 and Kathleen Boice that Mrs. Boice could stay at Emerald
12 Hills as long as there was an order for hospice and you
13 could get state approval?

14 MR. CORDOVA: Asked and answered.

15 A I don't remember specifically saying that, no.

16 (MS. CLEMENT): Does that sound like something you
17 would have said?

18 MR. CORDOVA: Calls for speculation.

19 A It could have been among the options of hospice
20 versus home health versus placement in a skilled nursing
21 facility. And I recall that those were the options that
22 came up when I first spoke with my regional team about
23 this.

24 Q (BY MS. CLEMENT): And did your regional team
25 recommend that Mrs. Boice go on hospice in order to keep

1 the back door closed so that Mrs. Boice stayed at the
2 facility?

3 A I don't remember the specific conversation, the
4 details. But I remember the options being hospice
5 versus home health versus skilled nursing. And clearly,
6 steps were taken to engage hospice. But I also see
7 mention of home healthcare.

8 Q Even if -- strike that.

9 What was your understanding as to why a hospice
10 order would allow Emerald Hills to keep Mrs. Boice at
11 the facility with a pressure ulcer?

12 MR. CORDOVA: I'll object to the extent the
13 question seeks improper opinion from the witness,
14 medical or legal or both.

15 A So it would not be uncommon for community care
16 licensing to approve having a resident stay in a
17 facility with a pressure ulcer that wasn't healing or
18 was beyond a stage two if they were on hospice.

19 Q (BY MS. CLEMENT): And what was your
20 understanding in November of 2008 as to what would
21 qualify a resident for being on hospice?

22 MR. CORDOVA: Same objection. Seeks improper
23 conclusion from the witness.

24 MS. WELLS: Join. Seeks a medical opinion.

25 A As I sit here today, I don't remember exactly

1 what I knew then. It's so very much about the work that
2 I do right now. So I don't remember specifically. But
3 a pressure ulcer would be one indicator, repeated -- if
4 there had been a change in care. I just don't remember
5 specific to her and what prompted that discussion.

6 Q (BY MS. CLEMENT): What would you tell families
7 when the suggestion was made that a resident go on
8 hospice in order to stay in the facility as to what
9 hospice meant?

10 MR. CORDOVA: Incomplete hypothetical.

11 A I don't think that I would present it as staying
12 in the facility, but there would be a discussion about
13 hospice appropriateness and what hospice meant, which is
14 end of life care.

15 Q (BY MS. CLEMENT): Was it your approach in the
16 fall of 2008 to tell families that hospice meant end of
17 life or that hospice meant there would be additional
18 care provided?

19 MR. CORDOVA: Compound.

20 A I don't remember how I presented hospice back
21 then.

22 Q (BY MS. CLEMENT): Okay. Was it your
23 understanding in the fall of 2008 that caregivers were
24 not allowed to do wound care treatment to pressure
25 ulcers?

1 MR. CORDOVA: Seeks improper conclusion from
2 witness.

3 A I believe so. Yes.

4 Q (BY MS. CLEMENT): Do you have an understanding
5 as to why Emeritus's caregivers were doing wound
6 treatments on Mrs. Boice's pressure ulcers?

7 MS. WELLS: Lacks foundation, assumes facts.

8 MR. CORDOVA: Join.

9 A I don't, but I was not aware that they were
10 doing the wound care.

11 Q (BY MS. CLEMENT): Whose responsibility at the
12 facility was it to interact with home health and ensure
13 that the -- there was a care plan related to home
14 health's responsibilities for a resident versus
15 Emeritus's responsibilities for a resident?

16 MR. CORDOVA: Objection. Vague and ambiguous.

17 A I would expect the nurse in the facility to
18 oversee that.

19 Q (BY MS. CLEMENT): Do you see any indication in
20 those e-mails that Peggy ever replied to the family in
21 terms of telling them what the status of Mrs. Boice's
22 pressure ulcers were?

23 MR. CORDOVA: Vague and ambiguous.

24 A I don't see that here. I only see
25 correspondence either from me or to me and Peggy.

1 Q (BY MS. CLEMENT): Did you have any
2 understanding -- strike that.

3 Do you have any recollection as to why it was
4 that Mrs. Boice moved from Emerald Hills to Foothill
5 Oaks?

6 MR. CORDOVA: Vague and ambiguous.

7 A I don't really remember. I mean, we talked
8 about it last time. I remember that it happened
9 unexpectedly. I don't remember. I don't remember if it
10 had to do with this, the decubitus ulcer. But I do not
11 remember the family notifying me that they were moving
12 out.

13 Q Okay. Why is that -- what is it about that that
14 you remember that the family didn't notify you they were
15 moving out?

16 MR. CORDOVA: Asked and answered.

17 A Just that, that I wasn't notified of the move
18 out and learned of it the next business day.

19 Q (BY MS. CLEMENT): Okay. Was that something, a
20 failure on the part of the family or failure on the part
21 of the memory care staff or your nurse that didn't tell
22 you that she was moving out?

23 MR. CORDOVA: Calls for speculation.

24 MS. WELLS: Join.

25 A I don't know that I would call it a failure. I

1 don't know if somebody else at the building was
2 notified. But in a formal way, I was not notified.

3 Q (BY MS. CLEMENT): Okay. Did you have
4 complaints from family members during Peggy's time at
5 the facility that they could never locate Peggy when
6 they were having concerns about their parents' health?

7 A I don't remember complaints about that, no.

8 Q Did you have complaints from your caregiving
9 staff that Peggy wasn't coming into the memory care unit
10 and assessing the residents there?

11 A No, I don't remember getting a complaint about
12 that.

13 Q Do you recall that it was corporate who told you
14 and Mrs. Boice's family that Mrs. Boice would need to
15 move to a skilled nursing or higher level of care?

16 MR. CORDOVA: Assumes facts. Lack of
17 foundation.

18 A No, I don't remember that.

19 (MS. CLEMENT): Do you recall that the Boice
20 family specifically asked you how the finances would
21 work for Mrs. Boice at Emerald Hills while she was at
22 the skilled nursing facility getting wound care?

23 MR. CORDOVA: Assumes facts, lack of foundation.

24 A No, I don't remember being asked about that.

25 Q (BY MS. CLEMENT): Do you recall ever having any

1 communication with Mrs. Boice's family about concerns
2 that they had, for example, that Mrs. Boice was sent to
3 the emergency room in September of 2008 with no
4 caregiver or anyone with her?

5 MS. WELLS: Lacks foundation. Assumes facts.

6 A No.

7 MR. CORDOVA: Join.

8 A No, I don't remember that.

9 Q (BY MS. CLEMENT): Do you remember the family
10 expressing concerns in your meeting with them that
11 Mrs. Boice and other residents in the memory care unit
12 were being served chicken with bones in them, that they
13 weren't able to take out on their own because of their
14 dementia?

15 MR. CORDOVA: Assumes facts.

16 A First of all, I don't remember meeting with
17 them, which this points out there was a meeting, but I
18 don't recall the meeting. So, no, I don't remember the
19 content or complaint.

20 Q (BY MS. CLEMENT): Was it Emeritus's policy to
21 visit residents when they left the facility to go
22 somewhere else for rehab or wound care or something like
23 that?

24 A I don't know if it was a policy, but it was a
25 practice, yes.

1 Q Did you ever go visit Mrs. Boice at Foothill
2 Oaks?

3 A I don't remember.

4 Q Do you remember if Mrs. Boice ever had an order
5 for hospice?

6 A I don't remember, no.

7 Q If Mrs. Boice had an order for hospice, would
8 you expect that to be part of her permanent record from
9 Emerald Hills?

10 A Yes.

11 Q Was it your understanding that all times when
12 Mrs. Boice was a resident at Emerald Hills, that Emerald
13 Hills was -- strike that.

14 Was it your understanding that all times
15 Mrs. Boice was at Emerald Hills, Emeritus was
16 responsible for ensuring that all of her care needs were
17 met?

18 A Yes.

19 Q Do you recall the family raising to you a
20 concern that they were notified by Lynda Kittle, the med
21 tech, on a Friday night that Mrs. Boice only had one
22 more dose of morphine and asked them to go to pick up
23 the prescription?

24 MR. CORDOVA: Assumes facts. Lacks foundation.

25 A I wasn't aware of that, no.

1 Q (BY MS. CLEMENT): Is that something that had
2 happened during the course of your tenure at Emeritus
3 where the med techs had failed to notice that a resident
4 was about to run out of their pain medication or other
5 medication other than the Agnes Fitch incident?

6 A As I sit here today, I don't remember. But I
7 can't remember.

8 Q Do you recall promising the family that you
9 would have more staff training on the medication issue
10 that the family raised with regard to the morphine
11 running out?

12 MR. CORDOVA: Vague and ambiguous. Lacks
13 foundation.

14 A I just don't remember my conversation with the
15 family.

16 Q (BY MS. CLEMENT): If you had told the family
17 that you would provide more training to the staff on
18 medications in response to their concern that they had
19 been called at the last minute to say that their
20 mother's morphine had run out, that you would, in fact,
21 have done that training or had someone do it?

22 MR. CORDOVA: Vague and ambiguous.

23 MS. WELLS: Assumes facts. Calls for
24 speculation.

25 MR. CORDOVA: Join.

1 A I don't remember that conversation. But if I
2 had said it would be done, I would expect that would
3 have been followed through.

4 Q (BY MS. CLEMENT): Do you recall the Boice
5 family reporting to you concerns that they came into the
6 facility to visit their mother and frequently found they
7 couldn't find anyone in the memory care unit in terms of
8 staff members?

9 A No, I don't remember hearing that from them.
10 But I don't remember meeting with them.

11 Q Would it be part of Alicia Parga's
12 responsibility to follow up with getting physical
13 therapy for a resident in the memory care unit if that
14 was something that she and the family thought was
15 appropriate?

16 MR. CORDOVA: Incomplete hypothetical.

17 A It could be, sure.

18 Q (BY MS. CLEMENT): And if Alicia offered to
19 arrange for physical therapy with Kaiser, would you have
20 expected her to follow through on that?

21 A Yes.

22 Q And do you recall that was one of the concerns
23 that the family raised with you in the meeting in
24 November of 2008, that no one had followed up on getting
25 physical therapy for Mrs. Boice?

1 MR. CORDOVA: I'm going to object to this line
2 of questioning as being cumulative. The witness has
3 testified repeatedly that she can't recall the
4 conversations.

5 MS. CLEMENT: Well, you know, I am entitled to
6 try to refresh her recollection.

7 MR. CORDOVA: Not all day.

8 A I'm sorry. I can't remember what we talked
9 about, because I don't remember having the conversation.

10 Q (BY MS. CLEMENT): Do you have a recollection as
11 how it came to be that Mrs. Boice's pressure ulcer on
12 her foot was originally discovered?

13 MR. CORDOVA: Asked and answered.

14 A No, I don't remember.

15 Q (BY MS. CLEMENT): If Mrs. Boice had been having
16 difficulty transferring, would you have expected that to
17 be reported to both her family and the -- her physician
18 as soon as it was noted?

19 MR. CORDOVA: Vague and ambiguous.

20 MS. WELLS: Lacks foundation.

21 A Yes.

22 Q (BY MS. CLEMENT): And that notification
23 regarding -- to the family and to the physician that
24 Mrs. Boice was having difficulty transferring should
25 have been recorded as part of Mrs. Boice's permanent

1 record?

2 A Yes.

3 Q Did you represent to Mrs. Boice's family that
4 the caregivers and med techs in the memory care unit had
5 the state-required training for employees providing
6 direct care in an assisted living facility?

7 MR. CORDOVA: Vague and ambiguous.

8 MS. WELLS: Join.

9 A I just don't remember my conversation with the
10 family --

11 Q (BY MS. CLEMENT): Do you remember telling the
12 Boice family that you had concerns about Alicia Parga's
13 competency to be the memory care unit director?

14 MR. CORDOVA: Asked and answered.

15 A I don't remember that, no.

16 MS. CLEMENT: Okay. I'll turn it over to
17 Ms. Wells for questioning.

18 MS. WELLS: I have to be somewhere at 6:30, so I
19 am going to have to defer. I'm not going to be able to
20 finish tonight anyway. It's been six hours -- nine
21 hours. Sorry. There is no way I can finish in 15
22 minutes, so I'm going to have to defer.

23 MR. CORDOVA: Does that mean another day of
24 deposition?

25 MS. WELLS: (Nodding head.)

1 THE VIDEOGRAPHER: This ends tape number five of
2 volume two of the deposition of Nancy Cordova. We're
3 going off the record at 6:11 p.m.

4 (Whereupon the deposition adjourned at 6:11 p.m.)

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, CATHERINE RANSOM, a Certified Shorthand Reporter in and for the State of California, duly commissioned and a disinterested person certify:

That the foregoing deposition was taken before me at the time and place herein set forth;

That NANCY CORDOVA, the deponent herein, was put under oath by me;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me to the best of my ability and thereafter transcribed into typewriting;

That the foregoing deposition is a record of the testimony's of the witness and all objections made at the time of the examination.

IN WITNESS WHEREOF, I subscribe my name on this 16th day of August, 2012.

Catherine Ransom

CATHERINE RANSOM, CSR NO 4693
Certified Shorthand Reporter
in and for the
County of Sacramento
State of California

Ref. No. 12180 ctr